City of Hampton, VA

Meeting Minutes

City Council

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

Ross A. Kearney, II *Christopher G. Stuart*
Will Moffett *Donnie R. Tuck*
Angela Lee Leary *George E. Wallace*
Molly Joseph Ward, Mayor

Staff:
Mary Bunting, City Manager
Cynthia Hudson, City Attorney
Katherine K. Glass, CMC, Clerk of Council

Wednesday, June 8, 2011 | 7:00 PM | Council Chambers, 8th Floor, City Hall

CALL TO ORDER/ROLL CALL

MOLLY JOSEPH WARD PRESIDED

PRESENT: Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace

INVOCATION - Vice Mayor George E. Wallace

PLEDGE OF ALLEGIANCE TO FLAG

MAYOR'S COMMENTS

Mayor Ward stated it is her understanding that the applicant for item number 16, Use Permit Application No. 1070-2011 by AT&T to construct a 120-foot monopole communications tower within a 60'X60' equipment compound located at 95 Tide Mill Lane, is requesting a deferral.

The applicant, Ms. Rency Yeatts, greeted the Mayor, Vice Mayor and members of Council and stated that AT&T has submitted a formal written request for deferral. She wanted to elaborate that she has had discussions with the community, specifically the Riverdale Civic Association that has been in opposition to the location of the tower. Therefore, she would respectfully request that the deferral be approved based on working with the community to come up with a mutually agreeable solution to the lack of service in the area.

In response to the Mayor, Ms. Yeatts stated she had originally asked for a deferral until June 2012, however, if that seems too far out, she would request a deferral until February 2012.

Councilman Tuck stated we have quite a few residents from Riverdale here and we will have an opportunity, he guessed, to hear somebody say whether or not that deferral date is agreeable or if it is strictly Council's decision whether or not that deferral date is agreeable.

The Mayor asked if Mr. Andy Bigelow wanted to speak as a representative of the neighborhood.

Mr. Bigelow greeted the Mayor and Council and stated the proposal that has been made by AT&T would be agreeable to the Civic Association for deferral to either February or June, whichever works well for them. The community is anxious to work with them to find a solution to this issue.

In response to the Mayor, Ms. Yeatts stated that is agreeable. She noted they hope to bring the issue in sooner and also for the record, she stated she does not believe she mentioned her name which is Rency Yeatts and she is the Zoning Specialist for AT&T and her business address is 1194 Azalea Garden Road in Norfolk.

Mayor Ward commented for those in the audience to speak on Item No. 16, it has been officially deferred and we will not be having a public hearing on that item tonight. She thanked those persons present to speak on the item for their attendance.

On another subject, the Mayor recognized Councilman Stuart and asked if he wanted to make a few comments about the Pirate Festival and sand soccer.

Councilman Stuart congratulated and thanked those people that came out and volunteered. He noted they had stunning weather and unbelievable vendors. It truly was another downtown Hampton success and certainly a City-wide success. In the middle of that event, Saturday, he took the family down to Buckroe Beach and went out to the sand soccer event which many families enjoyed. He thanked Old Point for partnering with the City to put on this event, which exceeded even their best expectations.

1. 11-0181 FEMA presentation of plaque to Mayor, indicating Hampton's acceptance into the FEMA Community Rating System.

The City Manager stated as Mr. Steve Shapiro comes up with the Federal Emergency Management Authority (FEMA) representative, she reiterated what was said at the afternoon meeting that the City of Hampton applied to FEMA several years ago for acceptance into the Community Rating System (CRS). This is a system that affords a rating based upon the community's readiness and protection. Based upon the rating that you get, the homeowners who apply for flood insurance get discounts on those premiums. We were notified that Hampton would be recognized into the system achieving a Class 8 rating, a rating achieved by only fourteen other communities in the Commonwealth of Virginia and so with that, Mr. Shapiro will introduce our honored guest.

Mr. Shapiro greeted the Mayor, Vice Mayor, the City Manager and the City Attorney and stated he is thrilled to be here tonight. He stated this is something we've been working on for over four years and he wanted to personally thank Council for their support but in particular, the City Manager for everything she has done. She has been supportive of our efforts for Hampton to get into the CRS. We started the process back in 2007 when we selected a consultant, Ms. Lee Chapman, to help us with this application. We submitted over 250 pages of support with our application and the instruction manual is 696 pages long. As you can imagine, without having a prime consultant who is familiar with this, it would've been a difficult thing to maneuver. He noted he also wanted to

thank the internal staff team because we couldn't have pulled this off without the help of several City employees: Tracy Hanger, Sarah Rue, Allan Lambert, Dave Stromberg, Curt Shaffer and Gayle Hicks, who all deserve a lot of credit because they have been with us while putting this application together.

Mr. Shapiro stated he is pleased to report that their work has been worth the effort. The great news is, as the City Manager said, we have entered into the program with a Class 8, which very few communities have accomplished. If you do nothing you are a 10. Generally, if you do something and are able to get into the program, you're a 9. Hampton was selected as an 8. That's going to result in total annual savings for the citizens of Hampton that have flood insurance policies of over $730,000 a year, which works out to about $65.00 a person depending on your particular premium. The rating went into effect on May 1st for all new businesses and folks that renew their policies after May 1st. So without any further ado, he introduced Rich Sobota from FEMA Region 3 in Philadelphia.

Mr. Sobota greeted the Mayor, Vice Mayor, Councilmembers, and commented that he represents the FEMA Region 3 office and is the insurance specialist for this region. He began working with the City of Hampton back in February of 2009; therefore, he knows it has been a long but good road. A lot of individuals in this room have done a lot of good work and we are here to recognize that work. As background, throughout the United States, there are nearly 22,000 communities that are participating in the Federal Emergency Management Agency's National Flood Insurance Program (NFIP) and 283 of those communities are located right here in the Commonwealth. Each participating community must meet certain minimum criteria in order to maintain a good standing with the program. Nationally, a very small handful, about 5% of communities, choose to go above and beyond minimum requirements and these efforts and activities result in a community that is both safer from flooding and better prepared for the next flooding event. In addition to that, these communities can qualify themselves to participate in FEMA's CRS and that's a program that is comprised of ten different class level ratings that are based on the type and number of activities that the community has undertaken. Ten different levels involved in ascending scale of premium discounts apply to eligible NFIP policies. Hampton is being recognized here because effective May 1, 2011, you have entered the CRS while achieving the distinction of a Class 8 rating on the CRS scale and that is a rating achieved by only fourteen other communities here in the Commonwealth and very few communities achieve that Class 8 rating upon entry. Perhaps more tangible to the citizens of Hampton, this Class 8 rating qualifies each eligible NFIP policyholder for an average of $64.00 in premium savings on their annual insurance and overall, the City's CRS accomplishment, as Steve mentioned before, results in a total annual savings of just short of three-quarters of a million dollars. He stated he is present to formally recognize the City of Hampton for its leadership, hard work and accomplishments on behalf of its citizens; and, on behalf of the Federal Insurance Administrator and the National Flood Insurance Program, he congratulated and thanked the City for a job well done.

Mr. Sobota made the presentation to the Mayor.

The Mayor commented that she can take absolutely no credit for this achievement, and asked if staff and others involved who worked on this are present and, if so, to please stand to be recognized for their hard work.

The City Manager recognized Ms. Chapman and thanked her for her work.

PRESENTED by Steve Shapiro, Deputy Director of Community Development, who introduced Richard J. Sobota of FEMA, to make the presentation to Mayor Ward.

CONSENT AGENDA

Consent Items

Councilman Tuck requested Council relook at the impact of the cab ordinance and suggested having a task force that would consist of possibly two Councilmembers, five representatives from the City, five citizens, someone from the Police Department, a practicing attorney and citizens at large to review the ordinance. He noted the ordinance goes into effect in July and he is concerned about the possible negative impacts on small businesses.

The Mayor commented that we are out of order; however, she suggested that Councilman Tuck meet with the City Manager to discuss ways to address the issue.

The Mayor asked if she could get a motion on Items 2 through 7 on the Consent Agenda.

Councilwoman Leary referred to Item 6 where the Code is being changed to allow more streets to be brought in for the operation of golf carts. While she will vote in favor of the item she will also be looking at the possibility of removing the operation of golf carts because of the way the Chief of Police feels about it.

2. 11-0171 Resolution Approving the City of Hampton, Virginia's Acceptance and Appropriation of the Virginia Department of Emergency Management Hazmat Equipment, Exercise and Training Grant of the 2010 State Homeland Security Program Grant from the National Preparedness Directorate, United States Department of Homeland Security.

WHEREAS, the Virginia Department of Emergency Management has allocated to the City of Hampton for federal fiscal year 2010, an amount of $23,000 in federal pass through funds with a no required local in-kind match for a total award of $23,000 and;

WHEREAS, the grant period runs from September 1, 2011 through March 31, 2012; and;

WHEREAS, the City of Hampton Fire and Rescue Division Hazardous Materials Team will meet the required grant performance measures of this HAZMAT Team Equipment and Training Grant; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton accepts and appropriates $23,000 from the Virginia Department of Emergency Management, HAZMAT Team Equipment and Training Grant, and any related supplemental funding in accordance with the program.

Adopted at the regular meeting of the City Council of the City of Hampton, Virginia, held on June 8, 2011.

APPROVED
Motion made by: Vice Mayor George E. Wallace
Seconded by: Councilmember Ross A. Kearney, II
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 0

3. 11-0172 Resolution Requesting Programming of the Pavement Data Collection Project and Authorizing the City Manager to Execute the Necessary Agreements with the Virginia Department of Transportation

WHEREAS, in accordance with the Virginia Department of Transportation (VDOT) construction allocation procedures, it is necessary that a request by a City Council resolution be made in order that the Department program a highway project in the City of Hampton;

WHEREAS, a more comprehensive pavement condition database will increase maintenance fund effectiveness;

WHEREAS, City staff has created an agreement with VDOT to utilize their current contractor for this work;

WHEREAS, Local Administration Agreements with VDOT are necessary for securing VDOT's commitment to this project; and

WHEREAS, VDOT requires that City Council grant authority for the City Manager to execute agreements.

NOW, THEREFORE, BE IT RESOLVED: that the City of Hampton, authorizes the programming of the Pavement Data Collection project and authorizes the City Manager to execute the necessary agreements for City Administration of this project.

APPROVED
Motion made by: Vice Mayor George E. Wallace
Seconded by: Councilmember Ross A. Kearney, II
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 0

4. 11-0177 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the 2011-2012 Victim-Witness Program Grant from the Department of Criminal Justice Services.

WHEREAS, the City of Hampton's Victim-Witness Assistance Program has received award notification from the Virginia Department of Criminal Justice Services on their allocation amount, which is $163,733 in Federal Funds, $54,577 in State Funds and $102,783 is being requested of the City of Hampton as a local cash contribution from the General Fund.

WHEREAS, the grant award covers the period, July 1, 2011 through June 30, 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA accepts and appropriates the Victim Witness Assistance Program in the amount of $321,093 and any related supplemental funding by the Virginia Department of Criminal Justice Services in accordance with the grant agreement.

APPROVED
Motion made by: Vice Mayor George E. Wallace
Seconded by: Councilmember Ross A. Kearney, II
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 0

5. 11-0179 Resolution Accepting and Appropriating the Funds Associated with the 2010 Assistance to Firefighters Grant Program Received By Hampton Fire & Rescue From the Department of Homeland Security.

WHEREAS, The Department of Homeland Security awarded Hampton Fire & Rescue a grand submitted as the 2010 Assistance to Firefighters Grant in the amount of $161, 700 in federal funds and $40,424 in matching funds from Hampton Fire & Rescue for a total of $202,124; and

WHEREAS, the grant period runs from March 1, 2011 to February 29, 2012; and

WHEREAS, the grant funds will be used to support Hampton Fire & Rescue's strategic plan where health and safety is a targeted area; and

WHEREAS, the grant will fund the purchases of 3 Accountability Base Stations for our current Self-Contained Breathing Apparatus (SCBA) equipment, 150 individual Accountability Systems for uniform personnel, and 11 Stair Master machines, one for each of the City's 11 fire stations;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA to accept and appropriate the 2010 Assistance to Firefighters Grant funds in the amount of $161,700, and any related supplemental funding, in accordance with the grant agreement and to authorize the matching funds in the amount of $40,424 from Hampton Fire & Rescue to be taken from their 2010 ambulance funds allotment.

APPROVED
Motion made by: Vice Mayor George E. Wallace
Seconded by: Councilmember Ross A. Kearney, II
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 0

6. 11-0180 Ordinance to amend and reenact Chapter 21, of the Code for the City of Hampton, Article IX, Section 21-221 to designate Sharon Bass Drive, Chipper Lane, Tiffany Lane and Brian's Court for the operation of golf carts.

APPROVED - Councilwoman Leary indicated that she intends to ask for the repeal of the golf cart ordinance.
Motion made by: Vice Mayor George E. Wallace
Seconded by: Councilmember Ross A. Kearney, II
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 0

7. 11-0189 Resolution Authorizing the Executing of a Lease Agreement Between the City of Hampton and Hampton Redevelopment and Housing Authority for the Use of Approximately 4992 +/- Square Feet of Office Space in the Ruppert L. Sargent Building Located at 1 Franklin Street, Suite 603 , Hampton, Virginia.

WHEREAS, as an accommodation to the City, the Hampton Redevelopment and Housing Authority ("HRHA") agreed to vacate its space on the 5th floor of City Hall and relocate to approximately 4992 ± square feet of office space on the 6th floor of the

Ruppert L. Sargent Building which was formerly occupied by the Planning and Neighborhood Housing Divisions of the Community Development Department;

WHEREAS, the move allowed the Planning and Neighborhood Housing Divisions of the Community Development Department to occupy the HRHA space on the 5th floor and bring all of Community Development under one roof in City Hall; and

WHEREAS, the HRHA has approved the terms of the Lease Agreement and Council has determined that the terms and conditions of the Lease Agreement are acceptable.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hampton, Virginia, that it approves the Lease Agreement with Hampton Redevelopment and Housing Authority to lease approximately 4992 ± square feet of office space on the 6th floor of the Ruppert L. Sargent Building and, accordingly, the City Manager or her authorized Designee is hereby authorized to execute and deliver to Hampton Redevelopment and Housing Authority the Lease Agreement in substantially the same form as attached hereto.

APPROVED
Motion made by: Vice Mayor George E. Wallace
Seconded by: Councilmember Ross A. Kearney, II
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 0

8. 11-0195 Request for Refund of Erroneous Tax Abatements for 2008, 2009 and 2010.

APPROVED
Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Christopher G. Stuart
Ayes: 6 - Ross A. Kearney, II, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 1 - Angela Lee Leary

PRESENTATIONS, PROCLAMATIONS, AWARDS

PUBLIC HEARINGS

Rezonings

9. 11-0176 Resolution to Adopt the New Flood Insurance Study and Flood Insurance Rate Map Effective August 16, 2011.

WHEREAS, the Council of the City of Hampton (the "Council") adopted new Article V, Chapter 17.3, Sections 17.3-31 through 17.3-36 of the Zoning Ordinance, entitled "Flood Zone District" on August 11, 2010, in order to accommodate the flood zones shown on Hampton's Flood Insurance Rate Maps (as updated by FEMA);

WHEREAS, at the time the ordinance was adopted by City Council, the City had not received the final flood elevation determination letter from FEMA, which initiates the adoption of the new maps;

WHEREAS, the FEMA flood elevation determination letter, dated February 16, 2011, was received by the City on February 22, 2011, with an effective date of August 16, 2011 for the new maps;

WHEREAS, in order to complete the map adoption process, Council must formally adopt by resolution the Flood Insurance Rate Map ("FIRM") and Flood Insurance Study ("FIS") with an effective date of August 16, 2011 together with the minor zoning text amendments to some of the provisions of Zoning Ordinance Article V to comply with Department of Conservation and Recreation revisions which include changing the date of the FIRM and the FIS to the effective date of August 16, 2011 (also being considered by Council at its June meeting); and

WHEREAS, the Council has determined that it is in the best interest of the City and its citizens that the FIRM and the FIS be formally adopted inasmuch as it is hoped that with the adoption of the ordinance together with the formal adoption of the FIRM and FIS, flood insurance policyholders in Hampton will be rewarded with reduced premiums

for a local floodplain management program that exceeds National Flood Insurance Program minimum requirements.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hampton, Virginia, that the Flood Insurance Rate Map and Flood Insurance Study as updated by FEMA are hereby formally adopted with an effective date of August 16, 2011.

The Mayor stated Item No. 9 is a public hearing on a rezoning. It is a resolution to adopt a new flood insurance study and flood insurance rate map effective August 16, 2011.

Ms. Bunting stated Council was briefed on Items 9 and 10 in the afternoon session to remind Council of our obligation to adopt the updated Federal Flood Maps. We reviewed the process we had used to inform the community of the changes, their right to appeal to the Federal government if they had any appeal, shared with you that we had no such appeals and that we were now in need of moving forward as directed by the Federal government in adopting their updated maps. Therefore, Items 9 and 10 execute the requirements that we have as a locality.

APPROVED
Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Christopher G. Stuart
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nays: 0

10. 11-0191 Ordinance to amend and reenact Article V of the Zoning Ordinance of the City of Hampton, Virginia entitled "Flood Zone District" by (a) amending section 17.3-31.1 pertaining to enabling authority, section 17.3-31.3 pertaining to compliance, section 17.3-32.CC pertaining to the addition of the definition of violation and amending former section 17.3-32.CC pertaining to the definition of watercourse to new section 17.3-32.DD, section 17.3-33.1 pertaining to the adoption date of the new Flood Insurance Study and Flood Insurance Rate Map and the establishment of zoning districts, section 17.3-33.2 pertaining to the official zoning map, and 17.3-34.4.B pertaining to standards for approximated floodplain, and (b) adding section 17.3-31.6 pertaining to jurisdictional boundary changes, section 17.3-33.5 pertaining to submitting technical data, and section 17.3-33.6 pertaining to letters of map revision, as required by the Virginia Department of Conservation and Recreation.

The Mayor stated Item 10 is an ordinance to amend and re-enact Article V of the Zoning Ordinance of the City of Hampton entitled "Flood Zone District." She noted that she had no citizens signed up to speak and asked if there was anyone present who would like to speak about items 9 or 10. As there was no response, she closed the public hearing.

HELD PUBLIC HEARING - there were no speakers on this item.

APPROVED
Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Christopher G. Stuart
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

11. 11-0184 Zoning Ordinance Amendment No. 022-2010 by the City of Hampton to amend and re-enact Chapter 1 of the Zoning Ordinance of the City of Hampton, Virginia entitled "Zones and General Provisions" by amending section 1-2 pertaining to zoning maps and adding section 1-5 pertaining to aircraft noise and aircraft accident potential zones and boundaries and section 1-6 pertaining to special regulations regarding discretionary zoning applications in air installation compatible use zones (AICUZ).

The Mayor stated Item No. 11, which is Zoning Ordinance Amendment No. 022-2010 by the City of Hampton, to amend and re-enact Chapter 1 of the Zoning Ordinance of the City of Hampton entitled "Zones and General Provisions" by amending Section 1-2 pertaining to zoning maps and adding Section 1-5 pertaining to aircraft noise and aircraft accident potential zones and boundaries and Section 1-6 pertaining to special regulations regarding discretionary zoning applications in Air Installation Compatible Use Zones (AICUS). Also, together with Item No. 11, we're going to take Item No. 20 which is an ordinance to amend and re-enact Chapter 22, Article 3 of the City Code of the City of Hampton, Virginia entitled "Noise Contour District" by amending Sections 22-51 and 22-54 so that we can hear them all together. She commented there is a representative here from Joint Base Langley-Eustis, Lt. Col. Marc Vandeveer, from the 633rd Civil Engineering Squadron and 633rd Air Base Wing, but first we will hear from staff.

Mr. David Stromberg, City Planner, greeted the Mayor and members of Council. He stated before Council this evening is Zoning Ordinance Amendment 022-2010, which is an amendment to Chapter 1 of the Zoning Ordinance entitled "Zones and General Provisions" pertaining to Air Installation Compatible Use Zones, also known as AICUZ. This Ordinance Amendment is a proposal to adopt AICUZ boundaries to the official zoning map and to adopt special regulations on discretionary development applications such as rezoning, use permits and conditional privileges. This amendment originates from the recommended implementation actions of the recently approved Hampton-Langley Joint Land Use Study (JLUS) that was approved in October of last year. The amendment aims to achieve several goals of the study. For example, changes to Section 1-2 regarding the zoning maps will allow the City to meet State code requirements regarding real estate property disclosures and sound attenuation.

Mr. Stromberg continued stating a locality must specifically reference the AICUZ boundaries in its zoning ordinance in order for it to be a part of the official zoning map and this amendment will meet that requirement. Changes to Section 1-6 regarding discretionary development applications shall reduce the amount of future incompatible land uses around Langley Air Force Base. Discretionary development proposals will be guided by the incorporated land use compatibility tables which derived from the JLUS and AICUZ studies. By reducing the amount of incompatible land use around the base,

the City is doing its part to prevent the adverse economic consequences that could occur from a closure or realignment. In addition to protecting the mission at Langley, this ordinance is designed to protect private property rights of existing land owners. Since this amendment is applicable to discretionary development only, everything that a property owner is currently able to do, they will still be able to do by right. This amendment does not change the underlying zoning district and it does not create non-conforming uses. Drafting of this amendment began after the completion of the JLUS. Drafts were presented to the JLUS Implementation Committee Langley Air Force Base and twice to the Zoning Ordinance Advisory Committee (ZOAC). Langley personnel have worked very closely with the staff in developing this language and the staff has incorporated comments from the two ZOAC meetings and they have given support to moving forward.

Mr. Stromberg continued that the amendment was presented to a meeting of the Virginia Peninsula Association of Realtors and there were about 65 local realtors in attendance and they added their support of this amendment. This amendment meets both general policies in the Hampton community plan as well as specific actions in the JLUS including partnering with Langley to develop strategies to reduce incompatible development around the base, working with local real estate agents regarding noise disclosure and amending the zoning map to include the current AICUZ boundaries. Currently, the City has no ordinances regulating discretionary development in AICUZ boundaries. The most significant zoning action to prevent incompatible development around the base was the comprehensive rezoning of land back in 1992 to the M-4 and M-5 Langley approach districts. These districts are created to limit the use and intensity of development within the accident potential zones and based on a previous AICUZ study. When drafting this amendment, the staff looked very closely at the Virginia Beach Zoning Ordinance regarding encroachment around Naval Air Station Oceana. The AICUZ ordinances adopted by Virginia Beach were a result of their 2005 Virginia Beach Oceana JLUS. Both Virginia Beach and Oceana officials have indicated that since adoption of their AICUZ ordinance, there has been no new incompatible development around the base as a result of discretionary development applications. He stressed a difference between Hampton and Virginia Beach is that Hampton is actually in a better position due to the proactive actions back in the 1990's and the fact the flight approach in AICUZ boundaries at Langley are significantly smaller than Oceana.

Mr. Stromberg referred to a map showing the AICUZ's boundaries. The red, orange and yellow boxes are the extant potential zones and the solid black lines show the boundaries of the noise contour zones. These are the areas that will be adopted as part of the official zoning map. The green and the blue shading indicates the 70 to 75 noise zone and the 75 to 80 noise zones. These are the two areas along with the extant potential zones that will be subject to discretionary development application restrictions. The 65 to 70 noise contour zone, which is the lowest noise zone, is not subject to discretionary development restrictions. The map shows the base zoning west of the runway that will be subject to the amendment. Please note that the predominant zoning within the extant potential zones as stated previously are the M-4 and M-5 Langley flight approach districts. Those are the purple colors and then the majority of the remaining districts are zoned R-11, one family residence; M-1, limited manufacturing and the Special Public Interest, Hampton Road Center North Campus district. East of the runway of the land zoned R-33 and R-15, is the lower density single-family residential districts and the remainder of the areas are over water or within the base boundaries. This graph is basically just a summary of those two previous maps and again, you notice

that the majority of the land is zoned either as a residential district or as a flight approach district. Based on these results, he presented three possible scenarios of what would happen should this ordinance amendment be approved. Scenario 1, you have a vacant parcel of land that's zoned R-11 and within the 70 to 75 noise contour district. Currently, the owner is able to develop the parcel to the R-11 standards and if this amendment is adopted, they will still be able to develop to R-11 standards. However, if an applicant requested a conditional privilege for a bed and breakfast or use permit for a juvenile residence, those uses are incompatible with the high noise zone. Also, if they were to request a rezoning to R-9 which is a higher density residential district, it would also be incompatible. However, if they desire to rezone to R-13 which would be a lower density, that would increase compatibility. In scenario 2, you have a property that's zoned M-4A and in the high noise zone and accident potential zone. This amendment would not change very much in this scenario since the M-4A district was based on the compatible land use table. The benefit in this scenario is the added protection should someone request a rezoning from M-4A to a residential or commercial district which promotes incompatible uses by right. Scenario 3 is a property with RM zoning in the high noise district and even though this zone district only makes up about 5% of the land underneath this ordinance, it is a good example because it has potential for a lot of incompatible uses with it. As mentioned previously, an applicant would still be able to develop all the RM uses by right. However, uses such as mobile home parks, day cares, orphanages, anything that requires a use permit would be incompatible. They do still have several rezoning options whether it would be to a residential district or manufacturing district. Those are both very different but they are both moving towards increased compatibility. So with that, both staff and the Planning Commission have recommended approval of Zoning Ordinance 022-2010.

Mayor Ward welcomed Col Vandeveer and asked if he would like to address Council.

Col. Vandeveer greeted the Mayor and Council and stated he is Lieutenant Colonel Marc Vandeveer, the Civil Engineering Squadron Commander at Langley Air Force Base, and expressed his appreciation to the members of Council and also the Hampton City Planning team. He commented they enjoy a very close working relationship and are very excited to have this policy enter the City's community plan with respect to aircraft approach zones, our AICUZ [extant] potential zones. We are very excited to see the implementation of the JLUS move forward and have the full support of the City. Colonel Donald Kirkland, 633d Air Base Wing Commander, wishes he could be here this evening. He is making plans for a Change of Command later this month and transfer to the Pentagon, where he'll be the Executive Officer to the Chief of Staff of the Air Force. He stated we are losing a great Commander but it is a great opportunity for him.

Colonel Vandeveer continued stating there is one other issue he would like to address to the members of Council this evening and that is an Air Force led initiative for an Installation Complex Encroachment Management Action Plan or ICEMAP for short. Joint Base Langley-Eustis was selected as a target of opportunity and in many ways the success of the JLUS initiative was an indicator of why the Air Force wanted to select Joint Base Langley-Eustis. He commented he brings this up because our contract team chartered by Headquarters Air Force will be involved and be soliciting information from your community stakeholders; however, he assured Council that it will not replace the JLUS or detract from it. It will just build upon that foundation and we're excited to see that move forward as well.

As there were no speakers on Agenda Items 11 and 20, the Mayor closed the public hearing.

Following the vote, Councilman Kearney stated his belief that this is a great indication of putting together a working relationship. In the 90s, it was a very debatable issue relative to what was happening in Virginia Beach and the administration forged a close working relationship with Langley to ensure we followed the protocol and made some really tough decisions on taking land off the table that was going to protect the flight path and the noise. To see this continue over the years since then speaks very highly of the City Manager's staff in working hand in hand with Langley and avoiding those problems that other bases have had across the nation over the years and he congratulated the City Manager and her staff.

PRESENTED by David Stromberg, City Planner. This item was considered with item #11-0174.

HELD PUBLIC HEARING - Lt. Col. Marc Vandeveer spoke in support of this item.

APPROVED - this vote was on #11-0184 and #11-0174.
Motion made by: Councilmember Angela Lee Leary
Seconded by: Councilmember Christopher G. Stuart
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

12. 11-0187 Zoning Ordinance Amendment No. 024-2011 by the City of Hampton to amend and re-enact chapter 18 of the Zoning Ordinance of the City of Hampton, Virginia entitled "General Provisions" by amending section 18-16 pertaining to projections allowed in yards and courts.

The City Manager stated Mr. Jeff Conkle, City Planner, will make a presentation on the subject. She noted this is part of the larger efforts to review and update our zoning ordinance. Mr. Conkle will detail this particular proposal which has been reviewed by the Zoning Ordinance Advisory Committee and the Planning Commission, both of which recommend approval.

Mr. Conkle stated this ordinance amendment regards front porches. We are proposing to amend Chapter 18 which is the General Provisions section, specifically Section 18-16 which pertains to projections allowed in yards and courts. In this case, we are specifically talking about front porches which project into the front yard. The purpose of this amendment is to provide our citizens with greater ability to construct front porches without having to obtain a variance from our Board of Zoning Appeals. The amendment process began late last year. Staff presented a draft of the ordinance change to the Zoning Ordinance Advisory Committee this past February and we followed that by two public hearings at Planning Commission meetings in March and April. Both bodies did recommend approval. This amendment does follow several of the adopted land use and community design policies of the City including enhancing and promoting community interaction and promoting neighborhood safety. The current regulations allow for what are called minor porches to project just 4 feet into the front setback, provided that the

porch is no wider than 6 feet so this produces what you would call a stoop rather than a front porch. However, the ordinance does allow for decks which do not have roofs to project up to 8 feet into the front yard regardless of width. So often you may find a citizen who chooses to build a deck rather than a porch because you don't have to deal with the variance request.

Mr. Conkle continued stating we did look into some other communities during our research and found that places such as Norfolk, Newport News and Alexandria all allow for front porch projections varying anywhere between 6 and 10 feet. This ordinance amendment would allow for projections up to 8 feet which mirrors what decks are currently allowed in the front setback, provided that the porch remains at least 10 feet back from the front property line. He provided photo examples. He referred to the front porches in the Crown Pointe neighborhood and then conversely, in the nearby Sussex neighborhood, and commented we have a lot of houses without front porches which due to this ordinance may not be able to build one by right. So with that, staff and Planning Commission do recommend approval of Zoning Ordinance Amendment No. 024-2011.

Councilman Kearney asked what happens if the neighborhood has a variance as some neighborhoods do. You cannot put an anchor fence in your front yard. Would this in any way do away with those types of covenants?

Mr. Conkle replied that if the homeowners' association has a variance, those rules would trump the City's rules, as they would not be able to violate the homeowners' association rules.

Councilman Stuart expressed appreciation to those involved in the recommended amendment for being responsive to what our citizens are looking for. He noted it was just this past Sunday that his pastor said he was blessed to have been born in Georgia and moved up to Virginia because one of God's greatest inventions was sweet tea and you can't get it in most other parts of the country and what better place to sip one's sweet tea than on one's own front porch, so he really appreciates the effort involved.

No one had signed up to speak on Item 12 and there was no response to the Mayor's query about whether anyone was present to speak on the item, therefore she closed the public hearing.

PRESENTED by Jeff Conkle, City Planner.

HELD PUBLIC HEARING - there were no speakers on this item.

APPROVED
Motion made by: Councilmember Christopher G. Stuart
Seconded by: Councilmember Ross A. Kearney, II
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

13. 11-0188 Zoning Ordinance Amendment 025-2011 by the City of Hampton to amend and reenact the Zoning Ordinance by deleting sections 3-1(28),

3.1-2(8), 3.2-2(8), 3.3-2(8), 3.4-2(8), 4-1(9) and 5-1(18) pertaining to "garage and yard sales".

The City Manager stated Items No. 13 and 14 deals with changes to garage and yard sale requirements. These also were initiated to respond to various community needs and City Planner Mr. Chris Dyser will make the presentation.

Mr. Dyser greeted the Mayor and members of Council and stated before you are Zoning Ordinance Amendment 025 and 026 as they pertain to garage and yard sale provisions. Staff is requesting an amendment to the zoning ordinance to relocate the existing garage and yard sale provisions into Chapter 18, the General Provisions section of the Zoning Ordinance. We're also requesting an amendment to this Zoning Ordinance to allow neighborhood groups an opportunity to apply for garage and yard sale permits. The process began in September of 2010 when citizens voiced concern due to the discontinuation of the community and yard sale permits offered by the City due to non-compliance with the Zoning Ordinance. As a result, staff drafted language to address these concerns. This proposal was reviewed by the Neighborhood Commission and endorsed by that body in February of 2011. The Zoning Ordinance Advisory Committee also reviewed this proposal and had no concerns as the Planning Commission voted to approve this item in May of 2011. The existing Zoning Ordinance only allowed garage and yard sale permits in select zoning districts. Also the ordinance does not allow an opportunity for community or neighborhood groups to purchase garage and yard sale permits. With that, staff is recommending a summary of the language to include authority would be granted to the Zoning Administrator or his designee. As stated before, community and neighborhood groups will have an opportunity to apply for permits. Also, community and neighborhood groups would be required to pay a fee of $20.00 regarding issuance of community yard sale permits.

In response to Councilman Kearney, Mr. Dyser stated today the fee would be $5.00 per member so in actuality, it would save the community group's money by paying a flat fee of $20.00. Also, there is no limit to the number of members for a particular group. He also confirmed that an individual can obtain a permit for $5.00.

Mr. Dyser continued stating yard sale permits will be issued three per calendar year to community groups and individuals as well. The proposal before you is consistent with the adopted policies of the Hampton Community Plan which includes promotion of the involvement of residents and organizations. It also encourages high quality community services in Hampton's neighborhoods. He concluded by saying that staff recommends approval of Zoning Ordinance Amendment 025 and 026-2011 regarding garage and yard sales permit.

Councilman Stuart stated the City Manager and staff deserve a tremendous credit for being proactive and responding to citizens' needs.

The Mayor noted that no citizens had signed up to speak on items 13 and 14 and asked if anyone present wished to speak. As there was no response, the Mayor closed the public hearing.

PRESENTED by Chris Dyser, City Planner.

HELD PUBLIC HEARING - there were no speakers on this item.

APPROVED - this vote was on item #11-0188 and #11-0190.
Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Christopher G. Stuart
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

14. 11-0190 Zoning Ordinance Amendment 026-2011 by the City of Hampton by amending and re-enacting chapter 18 "General Provisions" by adding a new section 18.24 entitled "Garage and Yard Sales."

The discussion regarding this item is noted under item 13.

PRESENTED by Chris Dyser, City Planner.

HELD PUBLIC HEARING - there were no speakers on this item.

APPROVED - this vote was on item #11-0188 and #11-0190.
Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Christopher G. Stuart
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

15. 11-0178 Zoning Ordinance Amendment No. 021-2010 by the City of Hampton to amend and re-enact chapter 18 of the Zoning Ordinance of the City of Hampton, Virginia entitled "General Provisions" by amending section 18-9 pertaining to fence and wall regulations.

The City Manager stated this is another staff-initiated zoning ordinance amendment. This particular one came to staff by way of the Board of Zoning Appeals which requested that as we were going through this review, that we specifically look at the issue of height as it related to fences. There had been many variance requests as it was represented to us and therefore we felt it was worth looking at. At the request of that Citizen Board, we opted to look at that and put forward language to the Zoning Advisory Committee and the Planning Commission. Of course, the Board of Zoning Appeals saw that as well and that's what is advanced to you this evening. She noted that this amendment has been somewhat more controversial than the others that we referred to you earlier.

Ms. Bunting reiterated that this particular amendment is being brought to Council based on the request of the Board of Zoning Appeals and ultimately if this is something that Council or the community are not in favor of, that is fine with staff, too. She commented City Planner Jeff Conkle will make the presentation.

Prior to Mr. Conkle's presentation, the Mayor asked how many people in the last five years have asked for variance for a 8-foot-high fence? In response, Mr. Conkle stated the requests were not specifically for 8 foot high fences but rather to increase from 6 feet in the rear yard and there were five requests in the last five years.

The Mayor asked what other requests are addressed by this ordinance change?

Mr. Conkle stated there were additional requests to increase from 4 feet in the front yard. This ordinance would address increase in post columns and decorative elements, not the actual fence height that would remain at 4 feet. There were seven requests since 2006, four of which were granted and three denied.

The Mayor stated she wanted those kinds of statistics and if that's all that we've had in the last five years do we want to take this out of the purview of the neighbors who might want to comment on variances made in their neighborhoods.

Councilman Stuart commented that it is his understanding that as the ordinance currently reads, it gives a neighbor or neighbors an opportunity to actually be notified and review what the adjoining property would do, so we're actually removing that right by voting for this.

The Mayor stated to the extent you make it by right.

Councilman Stuart stated therefore we are making the request automatic, is that correct? Again, given the frequency, he agreed with the Mayor that we are taking the knowledge away from a neighbor in a case where he does not know that there's a crisis in existence at the moment.

The Mayor agreed stating several requests were denied so those would be by right.

Councilman Kearney stated Council received a very wonderful email from a resident who said in the recent report given by the Police Department to their neighborhood group to be vigilant in your neighborhood and she felt that an 8-foot fence would deny a lot of that vigilance that would occur, from either the parking of cars illegally or activities that may occur and he agreed. He had a hard time looking at the numbers and thinking he needs to change that ordinance.

The Mayor asked if anyone in the audience wished to speak on this issue. As there were no speakers, the Mayor closed the public hearing.

The Mayor stated in order to save time with these facts on the table and with the understanding that staff isn't adamant about this in anyway, would anyone consider making a motion to deny it?

Prior to the vote, discussion followed relative to other components of the amendment that had not been addressed other than the fence height issue. It was agreed to deny this particular amendment and come back at a later date with additional information on the unaddressed elements in the amendment.

PRESENTED by Jeff Conkle, City Planner.

HELD PUBLIC HEARING - there were no speakers on this item.

DENIED

Motion made by: Councilmember Christopher G. Stuart
Seconded by: Councilmember Ross A. Kearney, II
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

Use Permit

16. 11-0194 Use Permit Application No. 1070-2011 by AT&T to construct a 120' monopole communications tower within a 60'X60' equipment compound area located at 95 Tide Mill Lane (LRSN# 7001615).

Use Permit #1070-2011
Conditions
95 Tide Mill Lane

1. Building Permit
Prior to the issuance of a building permit for the tower, the applicant shall provide a structural analysis report to the City's Building Official that demonstrates the tower can structurally support a total of four (4) carriers.

2. Location of Tower/Site Plan
The site shall be constructed in substantial conformance with the conceptual site plan packet entitled "AT&T, Elk's Lodge, NF465-I" prepared by Morrison Hershfield and dated July 16, 2010.

3. Tower Height
The tower height shall be no more than 120', specifically excluding the 4' lightning rod at the top of the tower.

4. Fencing/Tower Compound
A black vinyl coated chain link fence shall be installed and maintained completely surrounding the tower and equipment compound.

5. Landscaping
The site shall be in substantial conformance with the plan entitled "Landscaping Plan" dated July 16, 2010 prepared by Morrison Hershfield.

6. Regulations
Prior to issuance of building permit and construction of tower, the tower site and tower must comply with all applicable local, state, and federal regulations as it relates to wetlands impact and compliance with the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) .

7. Tower Removal

Should the tower cease to operate for a period of twenty-four (24) consecutive months or more, the tower shall be considered abandoned and must be removed by the primary leaseholder.

COUNCIL heard from the applicant's representative, Rency Yeatts, Zoning Specialist with AT&T, with respect to their request for a deferral of this item until June of 2012.

This item was discussed under the Mayor's Comments portion of the meeting.

DEFERRED (6/13/2012)
Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Angela Lee Leary
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

Conditional Privilege

17. 11-0193 Conditional Privilege Application No. 118-2011: Proposal by Dominion Ministries International, Inc. to operate a Day Care 3 for up to 40 children at 925 Old Buckroe Road (LRSN 12002800).

The City Manager stated City Planner David Stromberg will make a brief presentation. The Planning Commission and staff have recommended approval subject to eleven conditions.

Mr. Stromberg stated as indicated this Conditional Privilege by Dominion Ministries International, Inc. is proposing to operate a Day Care 3 for a maximum of 40 children ages 2.5 to 6 years old, five days per week from 6:00 AM to 6:00 PM at an existing church. The subject property is located in the Phoebus area of the City. More specifically, the site is located at 925 Old Buckroe Road at the intersection of Old Buckroe Road and Bryant Drive. The property is zoned R-11 and properties in the surrounding area are also zoned R-11 or R-9, single-family residential districts and R-11 permits a Day Care 3 subject to approval of a conditional privilege. A community meeting was held on Monday, May 2d with six members of the public in attendance and no concerns were expressed during this meeting. The Hampton Community Plan provides several policies as guidance when reviewing requests such as these, specifically providing high quality services and facilities in Hampton's neighborhoods and promoting a nurturing environment for youth in Hampton. Eleven conditions have been imposed on this application including but not limited to hours of operation, age, maximum number of children who can be cared for, meeting state social service requirements and a termination clause. Both staff and the Planning Commission recommend approval of this application, subject to the following 11 conditions:

Conditions

1. **Issuance of Permit**
   The Conditional Privilege applies only to the property of Dominion Ministries International, Inc., located at 925 Old Buckroe Road, and is not transferable to another location.

2. **Hours of Operation**
   The hours of operation shall be limited to 6:00 AM until 6:00 PM Monday through Friday.

3. **Traffic**
   a. Loading and unloading of children from vehicles shall be conducted on site and not on any public street.
   b. Access to the site shall be maintained in substantial compliance with the Traffic Circulation Plan submitted with the application on March 4, 2011.

4. **Play Area(s)**
   Outside play areas shall be limited to the existing enclosed area located on the southern portion of the property. The area shall be enclosed by a fence with a minimum height of four feet.

5. **Ledger**
   The applicant must maintain a daily ledger containing the names of children cared for which shall be available for inspection by authorized personnel of the City of Hampton without notice.

6. **Certificate of Occupancy**
   The applicant must obtain a new Certificate of Occupancy prior to commencing the day care operation.

7. **Licensing**
   The applicant must obtain a day care license or religious exemption from the Virginia Department of Social Services prior to commencing the day care operation.

8. **Enrollment**
   The day care center shall not exceed the enrollment of forty (40) clients or the number listed on the capacity certificate or the number allowed by the Virginia Department of Social Services, whichever is fewest.

9. **Age**
   The ages of children shall be from 2.5-6 years of age.

10. **Nullification**
    a. The Conditional Privilege shall become null and void of the use is not established within twelve (12) months of the date of approval by the City Council.
    b. The Conditional Privilege shall become null and void if the facility is not used for the permitted use for a period of six consecutive months.

11. **Termination**

Notwithstanding any condition or provision of this Conditional Privilege to the contrary, the Conditional Privilege may be terminated immediately for violation of any terms or conditions of the Conditional Privilege, a violation of federal, state, or local law pertaining to the day care licensing required by the Virginia Department of Social Services, or any criminal violations of federal, state, or local law pertaining to the care of minors.

Councilman Kearney stated the church at the location was originally the Reverend Francisco's church and at one time he operated a very large day care there. It's a very safe area and the church seems to run their organization beautifully. However, he was surprised you failed to mention that directly across the street with walking access is Jane Bryan Elementary School and an additional playground area. Many years ago the Reverend and his wife requested that the City put a crosswalk there across Old Buckroe Road so the children could actually go over there to walk, etc. He commented personally, as a resident of the area, he supports the church's efforts and believes the day care would be a great addition to the community.

Mayor Ward noted that no one had signed up to speak on this item and asked if anyone in the audience wished to speak.

Mr. Edwin Boone, 48 Snow Street, made the following statement: I live right behind Jane Bryan school. There is a street there right next to the church and there is no place for them to park when they have the baseball games and whatnot and they're always getting ticketed. We need some additional parking if you're going to have that day care there and especially for the kids that come there to play football and baseball during the summer and the fall because there's nowhere on that street to park. There's no parking and they get ticketed. So we need some additional parking to protect the citizens from getting towed and ticketed. Thank you.

Pastor Kim Black greeted the Mayor and members of Council and made the following statement: It is our day care and we are in a close relationship with Bishop Francisco and his wife. We look forward to the opportunity to serve our community by helping and mentoring the children. I am aware of the problem across the street which has nothing to do with our day care. Our day care, we have a lot and we have a system predesigned for drop-off and pick-up. There is a problem with the community and people who bring their children to the school across the street to participate in Parks and Recreation but that is a totally separate issue from our request for day care and we thank you for your consideration.

Councilman Kearney stated it is possible that Mr. Boone misconstrued the idea – the crosswalk was there so the children could go over to that area during the day.

The Mayor stated as there were no additional speakers on Item 17, the public hearing is closed.

PRESENTED by David Stromberg, City Planner.

HELD PUBLIC HEARING - Edwin Boone spoke about the need for more parking. Pastor Kim Black also spoke on the parking

issue which exists across the street but it is a separate issue from their request for the daycare.

APPROVED subject to 11 conditions.

Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Christopher G. Stuart
Aye: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0

Ordinances

18. 11-0166 Ordinance authorizing the transfer of City property located at 3725 Victoria Blvd. (LRSN: 2001543, comprising 7,201 square feet (0.1653 acre +/-) and containing Pump Station No. 1, to Hampton Roads Sanitation District (HRSD) for the expansion of the pump station.

The City Manager stated as part of an ongoing process to monitor sanitary sewer collection, system capacity and performance conditions in the Chesapeake Ave. service areas of the City, HRSD, our regional sewer treatment, is expanding the pump station operations next to the City's lot at 3725 Victoria Blvd. which currently houses Pump Station No. 1, owned and operated by the City. HRSD has obtained title to two other lots adjacent to the City's lot and will replace the current pump system with one that's capable of conveying larger capacities. HRSD's funding is already in place to effect the completion of the expanded pump station. HRSD ownership and operation of the new pump station will offer it flexibility. The lot that they're looking to acquire from us will be used to expand the buffer area for this new station from any adjacent homes. The existing pump station will be demolished once the new one is completed and operational. HRSD will take over all operations for the expanded pump station.

In response to Councilman Kearney, discussion followed relative to the location of the lot, which was determined to be across Ivy Home Road.

The Mayor stated no one signed up to speak and asked if anyone wished to speak. As there was no response, the Mayor closed the public hearing.

HELD PUBLIC HEARING - there were no speakers on the item.

APPROVED

Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Councilmember Will Moffett
Aye: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward
Nay: 0
Absent: 1 – Christopher G. Stuart

Resolutions

19. 11-0173 Resolution Authorizing The Issuance Of General Obligation Public Improvement Bonds Of The City Of Hampton In The Maximum Principal Amount Not To Exceed $38,000,000 To Finance Certain Capital Improvement Projects, And Providing For The Form, Details And Payment Of Such Bonds, And Authorizing The Issuance Of Notes Of The City In Anticipation Of The Issuance Of Such Bonds.

WHEREAS, the Public Finance Act of 1991, Sections 15.2-2600 et seq. of the *Code of Virginia* of 1950, as amended (the "Public Finance Act"), permits the issuance of bonds, when authorized by the Council of the City (the "Council") of Hampton, Virginia (the "City"), at one time or from time to time, in order to finance the cost of capital improvement projects for the purposes hereinafter described and to refund bonds or notes previously issued for such purposes; and

WHEREAS, it is the consensus of the Council of the City that the City should authorize the issuance and sale of general obligation public improvement bonds in the maximum principal amount not to exceed $38,000,000 (the "Bonds") to finance the cost of general capital improvement projects of the City, including, but not limited to, the construction of a new circuit court building and public parking garage, improvements and additions to public buildings, public infrastructure, and public school facilities and the acquisition of real property and equipment for public purposes; and to finance costs related to the issuance of the Bonds; and

WHEREAS, the City has advanced or expects to advance its own funds to pay certain expenditures related to such capital improvement projects prior to the issuance of such Bonds, and the City intends to receive reimbursement for such expenditures from the proceeds thereof; and

WHEREAS, a public hearing on the issuance of the Bonds and this Resolution has been advertised and held in the manner required by Section 15.2-2606 of the Public Finance Act of 1991.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA AS FOLLOWS:

§ 1. **Authorization of Bonds.** The issuance of the Bonds is authorized, subject to the terms of this Resolution, in the maximum principal amount not to exceed $38,000,000, in order to finance the cost of capital improvement projects for the purposes hereinafter described; and to pay issuance and related costs of the Bonds. The Bonds shall be designated "General Obligation Public Improvement Bonds", and may also include such other term or terms as part of their designation as the officers herein authorized deem appropriate.

§ 2. **Use of Proceeds.** Proceeds of the Bonds shall be used by the City to (i) finance in whole or in part, a program of general capital improvement undertakings for the following purposes: construction of a new court building and public parking facility; construction, reconstruction, improvements and equipment for public safety, emergency operations management and public schools; construction, reconstruction, improvements and equipment for various infrastructure needs, including traffic control facilities, streets, sidewalks and other public ways, bridges, storm sewers, drains and culverts, and refuse disposal facilities; participation in redevelopment, conservation and community development programs, including the construction, reconstruction, improvement and equipment for targeted public facilities included in these programs; construction, reconstruction, improvements and equipment for public institutional, operational, cultural, educational and entertainment buildings and facilities, parks, playgrounds, cemeteries, libraries and museums, and acquisition of real property for such purposes as appropriate and (ii) pay issuance costs of the Bonds and other costs related to or incurred in connection with the issuance of the Bonds as herein provided.

§ 3. **Terms of Sale; Delegation of Authority.** The Council hereby approves the following terms of the sale of the Bonds. The Bonds may be sold all at one time or at

different times, in either case in one or more series, as may be determined by the Director of Finance of the City in consultation with the Financial Advisor, with the approval of the City Manager of the City.

The Bonds shall be sold upon recommendation of the Financial Advisor, at either competitive bid or negotiated sale, at such prices as the Director of Finance, with the approval of the City Manager, shall determine to be in the best interest of the City, provided (i) the true interest cost of the Bonds shall not exceed 5.5%, taking into account any original issue discount or premium, but excluding any credit enhancement premium; (ii) the sale price of the Bonds to the underwriters or other initial purchasers thereof shall not be less than 97% of the aggregate principal amount of the Bonds, not taking into account any original issue discount, (iii) the final maturity of the Bonds shall not be later than 25 years from their dated date or such lesser period as set forth from time to time in the City's general obligation bond debt policy, and (iv) any optional redemption premium shall not exceed three percent of the principal amount of the Bonds. The Director of Finance, with the approval of the City Manager, is authorized to negotiate and acquire credit enhancement for the Bonds if it is determined in the City's best interest to do so based upon the recommendation of the Financial Advisor.

The actions of the Director of Finance, with the approval of the City Manager, in selling the Bonds shall be conclusive, and no further action shall be necessary on the part of the Council. This Resolution is intended to grant to the Director of Finance and the City Manager full and complete authority to finalize the terms of the Bonds, to provide for their issuance and sale and to execute and deliver any and all documentation in connection therewith without further approval by Council, consistent with the requirements of this Resolution, the Public Finance Act, the Charter and the Constitution and other laws of the Commonwealth of Virginia. The Director of Finance, with the approval of the City Manager, is further authorized without further Council action to issue

notes in anticipation of the issuance of the Bonds on terms not inconsistent with the terms set forth herein for the Bonds.

§ 4. **Redemption and Purchase.** Subject to the following paragraph, the Bonds may be subject to redemption or purchase prior to maturity at the option of the City on or after dates, if any, determined by the Director of Finance, with the approval of the City Manager, in whole or in part at any time, at a redemption price or purchase price equal to the principal amount of each bond, together with any accrued interest to the redemption or purchase date and a redemption or purchase premium not to exceed 3% of the principal amount of such bond to be redeemed or purchased, such redemption or purchase premium to be determined by the Director of Finance, with the approval of the City Manager. Any portion of the Bonds issued as term bonds may be subject to mandatory sinking fund redemption as determined by the Director of Finance, with the approval of the City Manager.

If less than all of the Bonds are called for optional redemption or purchase, the maturities of bonds to be redeemed or purchased shall be selected by the Director of Finance in such manner as he may determine to be in the best interest of the City. If less than all the bonds of a particular maturity are called for redemption or purchase, the bonds within such maturity to be redeemed or purchased shall be selected by the Securities Depository, herein defined, for the Bonds, if any, pursuant to its rules and procedures or, if the book-entry system is not in effect, shall be selected by the Registrar, herein defined, by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any bond to be redeemed or purchased shall be in the principal amount of $5,000, or an integral multiple thereof, and (b) in selecting bonds for redemption or purchase, each bond shall be considered as representing that number of bonds that is obtained by dividing the principal amount of such bond by $5,000. The City shall cause notice of the call for redemption identifying

the bonds or portions thereof to be redeemed to be sent by facsimile transmission, registered or certified mail or overnight express delivery, not less than 30 nor more than 60 days prior to the redemption date, to the Securities Depository for the bonds or its nominee as the registered owner thereof, or, if the book-entry system is not in effect, to the persons shown on the registration books of the Registrar to be the registered owners of the bonds. If a portion of a bond is called for redemption, a new bond in principal amount of the unredeemed portion thereof shall be issued to the registered owner upon surrender thereof.

If the book-entry system is in effect, the City shall not be responsible for giving notice of redemption to anyone other than the Securities Depository for the bonds or its nominee. If a portion of a bond is called for redemption, a new bond in principal amount equal to the unredeemed portion thereof shall be issued to the registered owner upon the surrender thereof.

§ 5. **Bond Details.** The Bonds shall be in registered form and shall be designated by title, date and series, bear interest from the date, be payable on the payment dates, and mature at such time or times not exceeding 25 years from their date and in amounts as either serial or term bonds, or both, with sinking fund payments, if any, all as determined by the Director of Finance, with the approval of the City Manager.

Each bond shall be issued in the denomination of $5,000 or any integral multiple thereof and shall bear interest at such rate as shall be determined at the time of sale, calculated on the basis of a 360-day year and a 30-day month, payable semiannually as determined by the Director of Finance, with the approval of the City Manager, subject to the terms of this Resolution.

Principal and premium, if any, shall be payable to the registered owners upon surrender of bonds as they become due at the office of the Registrar. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they

appear on the registration books kept by the Registrar on the date prior to each interest payment date that shall be determined by the Director of Finance, with the approval of the City Manager (the "Record Date"); provided however, any Record Date contained in the bond certificate shall be deemed the determination of such officers. Principal, premium, if any, and interest shall be payable in lawful money of the United States of America.

Initially, one Bond certificate for each maturity of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The City has heretofore entered into a Blanket Issuer Letter of Representations relating to a book-entry system to be maintained by DTC with respect to the Bonds. "Securities Depository" shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section.

In the event that (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar, and the City discharges its responsibilities hereunder, or (b) the City, in its sole discretion, determines (i) that beneficial owners of Bonds shall be able to obtain certificated Bonds or (ii) to select a new Securities Depository, then the City's Director of Finance shall, at the direction of the City, attempt to locate another qualified securities depository to serve as Securities Depository and authenticate and deliver certificated Bonds to the new Securities Depository or its nominee, or authenticate and deliver certificated Bonds to the beneficial owners or to the Securities Depository participants on behalf of beneficial owners. In delivering certificated Bonds, the City's Director of Finance shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth herein.

So long as there is a Securities Depository for the Bonds, (1) it or its nominee shall be the registered owner of the Bonds, (2) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges, and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository, (3) the Registrar and the City shall not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants, (4) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds, and (5) in the event of any inconsistency between the provisions of this Resolution and the provisions of the above-referenced Blanket Issuer Letter of Representations, such provisions of the Blanket Issuer Letter of Representations, except to the extent set forth in this paragraph and the immediately preceding paragraph, shall control.

§ 6. **Preparation, Execution and Delivery of Bonds.** The City Manager, the Director of Finance and the City Clerk are authorized and directed to take all proper steps to have the Bonds prepared and executed in accordance with their terms and to deliver the Bonds to or for the account of the purchasers thereof upon payment therefor. The Bonds shall be signed by the manual or facsimile signatures of the City Manager or the Director of Finance, and the City's seal shall be affixed thereto or a facsimile thereof printed thereon and attested by the manual or facsimile signature of the City Clerk. The Bonds may also be signed by the Mayor of the City. No bond signed by facsimile signatures shall be valid until it has been authenticated by the manual signature of an authorized officer or employee of the Registrar and the date of authentication noted thereon.

§ 7. **Form of Bonds.** The Bonds shall be in the form or forms as the Director of Finance may select, with such terms and provisions not inconsistent with this Resolution as may be approved by the officers signing the Bonds, whose approval shall be evidenced conclusively by the execution and delivery thereof.

§ 8. **Pledge of Full Faith and Credit.** The power and obligation of the City to pay principal of, premium, if any, and interest on the Bonds shall be unlimited and the City shall levy and collect ad valorem taxes upon all taxable property within the City, without limitation as to rate or amount, sufficient to pay the principal of, premium, if any, and interest on the Bonds to the extent other funds of the City are not sufficient or available for such purpose. The full faith and credit of the City are pledged for the payment of principal of, premium, if any, and interest on the Bonds.

§ 9. **Duties of Registrar.** The Registrar shall be selected by the Director of Finance, with the approval of the City Manager. The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any bond at the corporate trust office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the City shall execute, and the Registrar shall authenticate and deliver in exchange, a new bond or bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the City, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights

and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books as of the Record Date.

§ 10. **Legal Debt Limit.** The Council has ascertained and hereby determines and states that the maximum principal amount of the Bonds authorized by this Resolution and all other outstanding general obligation bonds or other general obligation indebtedness heretofore issued or contracted by the City for any purpose, or in any manner, does not exceed 10% of the assessed valuation of the real estate in the City subject to taxation, as shown by the last preceding assessment for taxes, and that, accordingly, the Bonds are within the limitation of indebtedness as provided in Section 6.16 of the City Charter, Section 15.2-2634 of the Public Finance Act and Article VII, Section 10 of the Virginia Constitution.

§ 11. **Reimbursement Declaration.** The City has advanced and intends to advance funds from time to time to pay expenditures related to projects for the purposes for which the Bonds are to be issued as generally described herein and to receive reimbursement for such expenditures from proceeds of the Bonds. This Resolution, together with previously issued declarations and statements with respect to expenditures previously made, constitutes the City's declaration of "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended, to reimburse itself for such expenditures with Bond proceeds. The Director of Finance shall keep on file records of the expenditures for which reimbursement will be sought.

§ 12. **Offering Documents.** The City Manager and the Director of Finance are authorized and directed to have prepared and distributed, in accordance with standard practices of municipal securities, one or more Preliminary Official Statements of the City describing the Bonds as authorized herein, the security therefor, and providing any other pertinent or relevant information. The Director of Finance shall make such completions,

omissions, insertions and changes in such Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement. The City shall arrange for the delivery to the purchasers of the Bonds of a reasonable number of copies of the final Official Statement, within seven business days after the date the Bonds have been awarded, for delivery to each potential investor requesting a copy of the final Official Statement and to each person to whom any underwriter or bidder and members of the underwriting or bidding group initially sell Bonds.

§ 13. **Offering Document Determination.** The Director of Finance is authorized, on behalf of the City, to deem such Preliminary Official Statement and such Official Statement in final form, each to be final as of its date within the meaning of Rule 15c2-12 (the "Rule") of the Securities and Exchange Commission (the "SEC"), except for the omission in such Preliminary Official Statement of certain pricing and other information allowed to be omitted pursuant to the Rule. The distribution of such Preliminary Official Statement and such Official Statement in final form shall be conclusive evidence that each has been deemed final as of its date by the City, except for the omission in such Preliminary Official Statement of such pricing and other information.

§ 14. **Tax Compliance Undertakings.**

(a) The City covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Bonds issued as tax-exempt obligations to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the City shall comply with any provision of law

that may require the City at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the City receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds issued as tax-exempt obligations from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The City shall pay any such required rebate from its legally available funds.

(b) Such officers of the City as may be requested are authorized and directed to execute appropriate certificates setting forth facts and covenants related to the expected use and investment of the proceeds of the Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code and any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificates, covenants and elections shall be in such form as may be requested by bond counsel for the City.

(c) The City covenants that it shall not permit the proceeds of the Bonds or the facilities financed with the proceeds of the Bonds to be used in any manner that would result in (a) 10% or more of such proceeds or the facilities financed with such proceeds being used in a trade or business carried on by any person other than a governmental unit or 5% or more of such proceeds or facilities financed with such proceeds being used for such purpose where such use is unrelated or disproportionate to the governmental use of such proceeds, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds or the facilities financed with such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any person other than a

governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the City receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds issued as tax-exempt obligations from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the City need not comply with such covenants.

§ 15. **Continuing Disclosure Undertakings.** The City desires to assist the purchasers of the Bonds in complying with the provisions of Section (b)(5)(i) of the Rule. In order to accomplish this, the City covenants to do the following to the extent required or requested:

(A) Annual Disclosure.

(1) The City shall provide annually certain financial information and operating data in accordance with the provisions of Section (b)(5)(i) of the Rule, as follows:

(a) audited financial statements, prepared in accordance with generally accepted accounting principles; and

(b) the operating data with respect to the City of the type appearing in portions of the Official Statement in final form under the headings "Authorization of Debt", "General Obligation Bonded Debt", "Certain Debt Ratios", General Governmental Revenues" and "General Governmental Expenditures".

(2) The City shall annually provide the financial information and operating data described in subsection (1) above (the "Continuing Disclosure") within 180 days after the end of the City's fiscal year, commencing with the City's fiscal year in which the Bonds are

issued, to the Municipal Securities Rulemaking Board ("MSRB") through its Electronic Municipal Market Access System or such other system as the MSRB may designate for such purpose.

(3) Any of the Continuing Disclosure may be included by specific reference to other documents previously provided to the MSRB or filed with the SEC; provided, however, that any final official statement incorporated by reference must be available from the MSRB.

(4) The City shall provide in a timely manner to the MSRB notice specifying any failure of the City to provide the Continuing Disclosure by the date specified.

If the City fails to comply with any covenant or obligation specified in this Section, any holder (within the meaning of the Rule) of the Bonds then outstanding may, by notice to the City, proceed to protect and enforce its rights and the rights of the holders by an action for specific performance of the City's covenant to provide financial information and operating data.

(B) Event Disclosure. The City shall provide notice in a timely manner to the MSRB of the occurrence of any of the following events with respect to the Bonds, such notice to be provided not more than ten days after the occurrence of the event:

(1) principal and interest payment delinquencies;

(2) non-payment related defaults, if material;

(3) unscheduled draws on debt service reserves reflecting financial difficulties;

(4) unscheduled draws on credit enhancement reflecting financial difficulties;

(5) substitution of credit or liquidity providers, or their failure to perform;

(6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;

(7) modifications to rights of bondholders, if material;

(8) bond calls, if material, and tender offers;

(9) defeasances;

(10) release, substitution, or sale of property securing repayment of the Bonds, if material;

(11) rating changes;

(12) bankruptcy, insolvency, receivership or similar event of the City;

(13) the consummation of a merger, consolidation or acquisition involving the City or sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

(C) Termination. The covenants and obligations of the City specified in subsections (A) and (B) to the extent they apply shall terminate upon the redemption, defeasance (within the meaning of the Rule) or payment in full of all the Bonds.

(D) Amendment. The City reserves the right to modify its obligations specified in subsections (A) and (B) without the consent of bondholders, provided that such modification complies with the Rule as it exists at the time of modification. The City shall, within a reasonable time thereafter, send to the MSRB, a description of such modification(s).

(E) Additional Disclosure. The City may from time to time disclose certain information and data in addition to the Continuing Disclosure. Notwithstanding anything herein to the contrary, the City shall not incur any obligation to continue to provide, or to update, such additional information or data.

§ 16. **Filing of Resolution.** The City Clerk, with the assistance of the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this Resolution in the Circuit Court of the City of Hampton and is directed to make a copy of this Resolution continuously available for inspection by the general public during normal business hours at the City Clerk's office from the date of adoption hereof through the date of the issuance of the Bonds.

§ 17. **Confirmation and General Authorization.** All other actions of officers of the City in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds are approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds, including entering into contracts and arrangements for the purchase of the Bonds in connection with a negotiated sale with one or more underwriters, to provide credit enhancement or insurance for all or a portion of the Bonds, to provide for the investment of the proceeds of the Bonds and any documents required by the Virginia Public School Authority in connection with any sale to such Authority for public school purposes. Such officers are

further authorized to enter into any and all agreements required for the issuance of bond anticipation notes if a determination is made that the issuance of such notes is in the City's best interest.

§ 18. **Effective Date.** This Resolution shall be in force and effect upon adoption.

Motion to approve resolution authorizing issuance of General Obligation Funds
Motion made by: Councilman Ross A. Kearney, II
Seconded by: Vice Mayor George E. Wallace
Ayes: 5 - Ross A. Kearney, II, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 2 - Angela Lee Leary, Donnie R. Tuck

PRESENTED by Mary Bunting, City Manager.

HELD PUBLIC HEARING - there were 19 individuals who spoke. Six spoke in support and thirteen spoke in opposition. One speaker left before being called to speak.

APPROVED
Motion made by: Councilmember Ross A. Kearney, II
Seconded by: Vice Mayor George E. Wallace
Aye: 5 - Ross A. Kearney, II, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nay: 2 - Angela Lee Leary, Donnie R. Tuck

MOVED TO separate the bond issue to divide the portion for the courthouse/garage from the portion for the school and other maintenance issues. This was offered as a substitute motion but then withdrawn.
Motion made by: Councilmember Donnie R. Tuck
Seconded by: Councilmember Angela Lee Leary

MOVED TO reappropriate funds from the City of Hampton's Bond Funded Projects Unexpended Appropriations as follow:

Buckroe Acquisition/Demolition - $958,750.38
Coliseum Crossroads Parking 2 - $1,514,242.22
Kecoughtan Acquisition/Demolition - $2,524,821.84
Downtown Master Plan - $10,626,020.49 *
Other Bonds - Blighted Property Demolition - $500,000.00

for a total of $16,024,834.93 and reduce bond issue by that amount. The motion was defeated and the matter returned to the original motion to approve

the bond issue as proposed in the original agenda materials. This motion was also offered as a substitute motion.

Motion made by: Councilmember Donnie R. Tuck
Seconded by: Councilmember Angela Lee Leary
Aye: 2 - Angela Lee Leary, Donnie R. Tuck
Nay: 5 - Ross A. Kearney, II, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward

Ms. Bunting stated this was discussed in the afternoon session. She emphasized that due to several public comments during our 6:00 p.m. session, although the resolution authorizes us to issue an amount not to exceed $38 million, $38 million is not the total cost for the courthouse and garage complex. The courthouse and garage complex are roughly $29 million which is made up of two components, roughly $23 million for the courthouse and roughly $6 million for the garage. We also have school maintenance funds for renovation and maintenance that are contained in this bond issue, as well as some additional moneys for some other community projects. So the $38 million is an amount not to exceed. When we go to the bond market, we have certain closing costs that cannot be anticipated in advance and that gives us the latitude to close the bonds at the best interest rate but be able to handle the closing cost on top of the projects previously mentioned. We have no additional staff reports due at this time, unless Council has questions. We do have our financial advisors and bond counsel present tonight as well as the City staff that can speak to any questions you may have; however, she believes everything was covered in the afternoon session.

The Mayor asked if there were any questions for staff, the bond counsel or financial advisors.

Councilman Tuck stated his belief that it was in February of last year when there was a discussion about the courthouse and the statement by the City Manager was that she had $6 million that could be applied toward the courthouse-garage project so he would think then that we really only need to borrow $23 million instead of $29 million.

Ms. Bunting stated her initial suggestion back in early 2010 was to delete the garage which would have saved $6 million. She made that recommendation to Council. Council considered it and then later in the budget adoption process, ultimately opted to put the garage back into play. There have been various suggestions made by different parties that we transfer money from one bond project to another, but in reviewing the existing bonds that we have outstanding for various projects, we believe those represent commitments that were made to various constituent groups and personally, she would not recommend that we re-allocate from one project to another without involving that group in that conversation. The $6 million she was referencing back at that time was just a complete deferral of the garage which ultimately Council opted not to do.

In response to the Mayor, the City Manager confirmed that if Council did defer the garage even after we borrow the $38 million, the funds could be used next year for schools or something else.

Councilman Kearney stated as he has said before and had said in emails that he had copied to the other members of Council, and said publicly that he had some concerns about the courthouse. He is a proponent of it. He stated it is one of those decisions that needs to be made. There is no political gain whatsoever. We are talking about the third

branch of government. He believes it is a good thing but he was concerned about the disruption to Honor Park, for one, and he did not think that it should be done. He did not like the idea of a through street in that particular area for safety reasons and the disruption to Honor Park itself. He asked that the City Manager address that issue and what has been done.

Ms. Bunting stated Councilman Kearney had asked her to look into that. Although there was a plan and in fact, it is still a plan on the drawing board, that was advanced by the master planning process and the community members, to look at a street going through the existing Honor Park. That is not funded in this bond issue nor is it contemplated to be done any time in the near future. It was an idea, one that she and staff and some community members thought had merit but it had not advanced to any immediate plans to do that. The Military Affairs Committee and other interested constituents had talked about a fundraising campaign to enhance Honor Park. However, that has not yet been done. As mentioned, there are no funds in the project at this point to do that. A buffer between the buildings is important for security reasons that we talked about earlier today, not to have the garage and the building right immediately adjacent to one another but it will not be a through street at this point. If we were to ever entertain that, it would be a decision that would have to come back to Council.

Councilman Kearney stated his other concern was the relocation of the Registrar back in downtown Hampton.

Ms. Bunting stated a couple of months ago, we went back to look and explored with the Registrar various options that would comply with Justice Department requirements and provide the appropriate amount of space for her needs. What we ultimately resolved after looking at various options was to use the first floor of the garage space to accommodate the Registrar. That met with her approval. She felt it would be in compliance with all the Justice Department regulations. We would, of course, at the appropriate time have to have that review but she felt like given the current guidance, there would be no problem. As we discussed earlier today, we will have a staggered construction schedule with the Circuit Court itself being the first building to come out of the ground. By the time we complete the garage, we will have that space for the Registrar.

Councilman Stuart stated he had received a note from a young lady, Megan Canny, who wrote, "I reside in Hampton" and went on to say she is a Girl Scout, with a project at Honor Park. Her note was an impassioned plea for Honor Park. He stated he intends to respect her plea.

Councilwoman Leary stated she went over the findings by Stewart-Cooper-Newell, the architects that did the safety aspects on the building and she had a couple of things that she just wanted to put to the record. On page 2, under his security review, he writes, "As the consultant is not versed in this court's procedural areas, any discussion of security procedures is beyond the scope of this report and is included by way of informational purposes only" which she took to be a disclaimer to a degree about what he's saying about all of this. She also expressed concern about the following: misspelled words which cause her to question the actual data itself; she noticed that on Page 3, Figure 2, they cited Courtroom 4 for hedges providing concealment and she thought that was a little bit troubling when we talk accepted principles all the time, that we would have that type of a problem; on Page 4 the area of protecting the court

building's vital infrastructure is commonly overlooked in laying out the site arrangements of these structures, which she mentions to ensure it doesn't wind up on the new courthouse; the walkway being secure between the jail and the court itself. Therefore, she wasn't convinced that everything is falling apart right now but she wanted to introduce the following for the record: an e-news from Congressman Scott Rigell dated June 3, 2011, relative to the national debt, debt that really adds up when you include the unfunded liabilities of mandatory entitlement spending; her belief that the nation's debt really rolls downhill; another article from the Wall Street Journal on June 1st regarding the House rejecting raising the debt limit, which bothers her because again, she feels like that is running downhill. She referred to notes from February 10th of 2010. On the agenda was a briefing on old bond issue plans and public hearing processes and in that, Assistant City Manager Mr. Peterson had broken out for her a portion of the architectural [engineering] design fee for the court building, design fees for the garage, construction of the parking garage start date, construction of surface parking to HRT site and City site, the existing lot on Pembroke Avenue. She noted she was unsure how much it really wound up costing. So the total of that was $7 million, but even though that was on a briefing on the bond issuance plans, she does not know if we really went to the bond market and got any of that money. So that was another piece that she was wondering about.

Councilwoman Leary continued stated she went back and looked at the MMM Design Group, Justice Planning Associates of April 2009, April the 10th and in their executive summary - this is on our circuit courthouse - they gave an existing condition survey. They say that the Court Space Needs Study analyzed and projected the operational requirements of the courts through the year 2030. That included the rate of population growth in the City of Hampton, civil and criminal filing projections and case load projections for current and future judgeships. They talked about the square footage that was going to be needed, that type of thing and a 420-car parking structure. Then we go on to the Space Needs Study. This is what caught her attention. They did a project methodology. They did an analysis that said analyze the system growth of project court filings which they do, develop uniform functional space and qualify long-term space needs, evaluate potential sites for new construction. She is unsure whether that was done and the one that blew her away was when it said the City of Hampton's recent population 1970 to 2030 and for 2010, our projected population was 149,600 but then on the chart right next to it, the graph, it shows our population at 150,000 and then it grows by five-year increments to 2030. Looking at all this, thinking about every aspect of it that she could, she knows that questions were raised about us having 27 inmates sleeping on mattresses on the floor in the jail. She also knows that there are questions involving the jail and if there are certain things we can't do. That's one of them. She commented she wants to get away from the politics of this and just use plain common sense. She agreed we need a new courthouse and it's like we needed it yesterday but she looks at the debt that everybody is talking about. She looks at what's happening in her neighborhood. She tries to look at the City as a whole, she still wants the courthouse. She doesn't know why we didn't look to our west and there's a property over there where we could've built the courthouse, the new parking and a new jail for a lot less.

The Mayor asked if Councilwoman Leary had a question as they were trying to wrap up the questions Council had of the financial advisor, the bond counsel and staff members.

Councilwoman Leary stated she had two questions, one is the last time we went to the bond market were any moneys acquired for any design fee for the court building, the garage, the construction of the parking garage or the surface parking?

The City Manager responded that design work for each of those was done as well as some of the paving work. She was unsure whether that was done with bond or general funds.

Mr. Peterson stated the $7 million that Councilwoman Leary alluded to, was when we were putting together the preliminary bond issue that we did in 2010 and we were showing how much money had been already committed from previous bond issues and how much was needed to finish it out. He noted he was unsure whether we did a proposal for reimbursement which is a way of doing bond funds versus actually issuing the bonds but the $2 million that we have expended so far is bond funds, either potential borrowing using fund balance or the existing bond issue we did back in 2010.

In response to the City Manager, Mr. Peterson confirmed that money was not borrowed for the garage itself. Any reference to the courthouse in the earlier bond issues only had to do with the preliminary design and engineering work.

Councilwoman Leary asked what stage we are in with the courthouse design? In response, Mr. Peterson stated basically all of the preliminary design work has been finished and we are ready to go to the next phase which is the construction design.

Mr. Mike Hodges, Public Works Engineering, clarified that 95% of the design work has been done and it will be completed by the end of the month and we will be ready to advertise for bids July 1st. The bid period will be forty-five days.

Councilwoman Leary asked when do they expect to give a notice to proceed? Mr. Hodges replied it usually takes about three to four months to do the bidding and the contract execution so probably in the October-November timeframe.

Mr. Peterson added that in the procurement process, before we give notice to proceed, we may actually get bids that are over what we think we want to pay so there are a lot of variables even though we're looking at 45 to 90 days to get it done, we might get to that point and have to go back out for bid.

In response to Councilwoman Leary, Mr. Peterson stated $32 million is what is left on those projects. We have Purchase Orders (POs) and other transactions already in progress on that and what he had tried to explain in that schedule is that as you look at that, that's all the bond projects that have been commissioned by the City since 2005 and different things may actually have stopped the project. For example, we're doing work down at Buckroe for comfort stations - just to use it as an example. We tried to do the work and there are some other park improvements that had to be done. Therefore, we might actually sit for six months before we start the process because we're trying to avoid the peak of the tourist season and so the work is done in phases so that we only bid out the portion that we can get done during a certain time.

Councilwoman Leary commented the cost of borrowing this money has to be greater than what you're taking in on the interest that you're receiving on it sitting there.

Mr. Peterson stated the arbitrage rules don't permit you to get more anyway. There was a time when you would issue money early and the City tries not to do that. We try to issue just in time. We have another handicap in governmental procurement and that is we cannot bid a contract unless the money is available. So it may take three years to do a project or eighteen months to do a project. For instance, the court building will take eighteen months but we have to have the money available when we issue the contract. That's the Procurement Act.

Councilwoman Leary stated then none of this $30 million could be sitting there in the bank as a show of "we're going to do this but we'll borrow the money in two years?"

Mr. Peterson stated you would have to take that project out. In other words, the next phase of any one of those projects that you have to go forward with, say the comfort station and the shelter improvements at Buckroe, you can't start them if you've put that money somewhere else. There's another danger in doing it. When you go to the bond market – and we've got the financial advisor to talk to this – when you go to the bond market, you put some broad categories of what you're going to use the money for within the bond paperwork. But you make a presentation to the rating agents that this is what I'm going to do and they use that presentation of the projects that you're going to do to see whether or not they are germane to government, whether they're essential or whether they are worthy of you borrowing money and what they hate to see is that you borrow and do a switch-and-bait because it impacts the way they rate your bonds.

Councilman Tuck stated we borrowed approximately $1 million under Federal stimulus programs for the Newmarket Creek Trail.

Ms. Bunting stated the City had several projects funded under the Federal Recovery Zone process, $1 million of which went to Newmarket Creek.

In response to Councilman Tuck, Mr. Terry O'Neill stated the entire Newmarket Park and Trail system has multiple phases to it and will total just below $7 million.

Councilman Tuck asked if we were planning to borrow to finish that project or to move it further along?

Ms. Bunting stated as we get to milestones in that project we do capital improvement planning to look at how much debt we're paying off in any given year, what our assessed values are. We have financial policies that govern how much we borrow that look at our outstanding debt as well as our capacity to service the debt in terms of a percentage of our annual operating budget. We say we will not exceed 10% of our annual operating budget on the expense of debt service so that's one factor we look at. We also look at our outstanding debt compared to our assessed valuation. While the State allows us to go up to 10%, we have a conservative barometer of no more than 3% for general obligation bonds. So when we're doing our capital improvement planning we look at when we can borrow money and we look at the various competing needs and we plot that out. Right now, we have not spent the $1 million which represents the first phase of that effort; therefore, it is very difficult to say when the second phase would come up. In the current Capital Improvement Plan (CIP), the five-year look, we don't have the second phase yet programmed because we're looking at all those considerations just mentioned.

Councilman Tuck asked whether we are looking to build a new Emergency Operations Center within the next one or two years.

The City Manager confirmed that design money for the center is in this particular bond issue design.

In response Councilman Tuck, Ms. Bunting stated she does not have the information in front of her relative to the total cost; however that has been factored into the debt analysis provided to Council.

Councilman Tuck expressed his concern that the City is still borrowing and there are still projects that we want to do. Yes, we are paying off money or indebtedness but we're still borrowing and as Mr. Dyser made the comment earlier today that we are anticipating going from $1.3 million he believes or he said $800,000 that we've set aside for this courthouse and garage project and that will cover us from January through the end of June for next year. Then we're looking at $2.7 million being the payment for FY13 so there is a jump and then we're also looking at $5 million or so each year for school maintenance. We are also looking at this Newmarket Trail and the EOC. It just seems like we're spending more and more money. We're borrowing more and more money at a time when there's tremendous uncertainty.

Ms. Bunting stated actually, we significantly scaled back our CIP plans, when the financial recession hit all of us. There were many projects that were initially slated to go in the next five years that we said are very worthy projects and are still very important. We move them to a priority listing in our contingency plan because we were trying to be good stewards of the money and when she says good stewards, she goes back to the financial policies that this Council has adopted relating to how much we would spend each year on debt service and what our outstanding debt valuation would be. We are within those parameters with our plans for each of the next several years. If the economy improves and our assessed valuations go up and our tax revenue returns from the market improving, the housing market improving, then we'll be able to move some of those priority projects back over. If it gets worse then we'll make an annual re-evaluation as to whether our bond plans are appropriate or not but as long as she has been here, this Council has been very consistent in honoring its financial policies and that's why we employ a financial advisor to help us model what we can afford to do in each year. She reiterated that in past years, we have taken steps to scale back our borrowing to reflect the given financial situation. She stressed she wanted to leave Council and the community with the assurance that we have modeled and have looked at the next five years and what those policies would say we can spend and we stay within those means and have made the appropriate adjustments for it.

The Mayor asked those who have signed up to speak to take turns at the microphones.

Mr. John Krulis, 3631 Chesapeake Avenue made the following statement: I firmly believe that the spending of the City is completely out of control and I do with all due respect ask that the names of Bunting and Ward and all of you members of Council be attached to this debt that you are putting upon the people of Hampton. It is really and truly out of control and when you say that you're curbing things, I find that absolutely unbelievable. Now, I leave it to others who are far more qualified than me. Mind you, I'm a senior with a partial tax abatement living in a garage so I'm not qualified to talk about high finances but let me tell you, you do not make sense to these people. I know

you're making sense to the people who run the markets but you are not making sense to the people who pay your salaries. You are not making sense to the people who have lived in this City. You do not. I'm sorry. And as far as – well, with all due respect, we do not need that courthouse. We do not. We do not have the population. We do not have the need for that courthouse and if we have $30 million that starts flowing around here, what a wonder you could do to that building to make it an absolute sterling thing that would bring people here to just see the courthouse that you had reconditioned to serve justice in this town. If a judge has a problem getting in and out, give him his own entrance. Give him his own elevator. Give him whatever he needs to make it a safe place but do it. 1610, we have zero to show for 1610. There's nothing still standing that has not been burned down. This is the last piece of equipment that the City owns that is of any historic importance and you're going to make it into a tourist trap? How pitiful! Truly pitiful! That courthouse deserves to be a courthouse for as long as we're all here. As far as another point of what this courthouse is supposed to do, it's supposed to record the sales and the purchases of real estate in this town. Is it not? What does the City provide us in terms of how much it spends on the purchases of properties? Zero. If you go to the courthouse and try to find out what your City has spent to buy the properties down the street, anywhere in the City, what will you be told? Zero. You don't deserve a courthouse if you're not performing what it's supposed to do. I'm sorry. We don't need that courthouse, period. I'm not – yes, I know it's a done deal. I know it's too late but may your names, every one of them, be assigned to this debt.

Ms. Beatrice Darden, 8305 Terrell Lane, made the following statement: I stand before you asking you not to support the issuing of a $38-million bond, a $29-million bond or $23-million bond because we really do not need a courthouse at this time and to place such a burden on the taxpayers and the children would not be in the best interest of this City. Councilman Stuart, you listen to the people. You have been an advocate for the people since becoming a member of City Council. We ask that you continue to support the people and we ask that you vote with the people. Thank you.

Ms. Christine Cunningham, 7 Clay Street, made the following statement: I'm not here this evening asking you to vote on the bond issue. We do not need a new courthouse. Whether it's $28 million, $38 million, we still don't need it. Councilman Stuart, you have been an advocate for the people and we ask that you all will continue to support the people. We ask that everyone please vote no. Thank you.

Mr. Gerry Banks, 2201 Laguard Drive, made the following statement: Councilman Stuart, please say no. Just say no. Just say no. Just say no. Please say no. Thank you.

Mr. Frank Bryant, 243 Pasture Lane, made the following statement: I am here tonight to ask our Councilman Stuart to say no to the building of the courthouse. No money, no courthouse. We do not need a courthouse at this time. Thank you.

Ms. Gladys Malone, 24 Columbia Avenue, made the following statement: I'm here this evening asking this Council to reject voting against the funding of a new courthouse. We do not need to issue bonds with $38 million or higher dollars you're asking for at this time that the economy is unpredictable. To propose that burden to the backs of our children and grandchildren is irresponsible. Councilman Stuart, I did not know you during the election last May but Mr. Langford, our president, asked that we vote for you and we are asking that you vote for us and vote against this courthouse. Thank you.

Ms. Deborah Pearson made the following statement: I'm here again asking the Council to reject even the subject matter of a new courthouse. Any additional funding that the City can raise should be used towards educating our children. There's no need to issue multimillions of dollars in bonds to fund the building of a new courthouse. We must utilize the City's resources and funds intelligently for the needs of the City and not the wants of those who work for the City. Extending that burden to pay for a new courthouse on the backs of the citizens of Hampton when the pockets of most of us are bare from just trying to keep gas tanks half full in our cars will be unfair and unjust. Let us use funds and raise funds only when it is necessary in those areas where it is needed most. Councilman Stuart, I honor and respect my president. He came to me when you were running for your position last year and he said, "Councilman Stuart is a good candidate" and he smiled at me and he said the same about many of you. Any person who has the support of my president has my support as well. So I'm not asking you in return and not just of him but of all of you to think highly of those who voted for you and not put any more burden upon the people than we can bear and, if need be but only if need be, that you have to extend that burden, that you do it for good and just purposes and this courthouse just isn't one of them. Thank you.

Mr. Hugh Bassette, made the following statement: I'm speaking as a taxpayer and as a citizen. I am 100% opposed to this courthouse, always have been. I cannot, for the life of me, see the need and the reasons that you give for doing it hardly make sense. Politicians and staff, they like to build brand new shiny buildings because I guess they put their name on them and they'll go down in history and say, "Look what we accomplished, look what we did" but this is something that you want. It's definitely not something that you needed but the main thing I have with it is the process. You're going to have a public hearing after this is a done deal. The horse is out of the barn running down the road and now you're going to hold a public hearing but here is an article from December in last year where you talked about the courthouse. You even paid consultants to do it. Here's the CIP. You've got $1 million in '09, $1 million in '10, $1 million in '11, $23 million '12 and now, you're going to say, "Let's have a public hearing" and you want to hear from the public. You don't want to hear from us. You've decided this a long time ago and you know good and well, who's going to vote for it. The Mayor's going to vote for it. George Wallace is going to vote for it. Ross Kearney is going to vote for it. And unfortunately, you're going to vote for it and you just [won] by 57 votes so you better really reconsider that vote because I haven't talked to one single person who said, "I'm in favor of building a new courthouse. You're just wasting my tax and money" and you just passed a budget where you paid $30 million in debt service, okay, and I hate to keep saying this but Clinton told you the first thing to do if you're in a hole is what? Stop digging. You're just digging this hole deeper and you need to cut your municipal credit card and – that's just like me taking my credit card and just going out and just spending it. One day, you got to pay the piper and I guess you don't have to worry about it because this piper is going to be paid by my kids and my grandkids because all of it is going to be gone by the time you finish this. Thank you.

Mr. Robert Boester, 535 Elizabeth Lake Drive, made the following statement: I'm an attorney. I practice in Hampton. I've been an attorney for 35 years. I've appeared in the Hampton Circuit Court more than 1,000 times. I've conducted more than 100 jury trials and I'm here to recommend the building of a new courthouse on behalf of the Hampton Bar Association. I brought an exhibit which is being handed around. You're going to see a picture of the Hampton Circuit Court that was taken in 1910 with Civil War

Cannons out front, with Model Ts and a trolley running down the middle of the street and that was fine in 1910 when it was remodeled. It was remodeled more than 100 years ago. We need a new courthouse primarily because the building is dangerous. Prisoners move in the hallways with jurors, judges and victims. The only court building in the area that has that going on other than Hampton is Portsmouth and they're in the process of replacing their building primarily for that reason. It is inconvenient for the handicapped and I want to tell you the building is falling down. Somebody raised that before. Here are two examples. Last summer, I had a jury trial with Judge Taylor; we had to send the jury home to get parkas because it was 55 degrees in the jury room while it was 85 degrees in the courtroom and nothing could be done about it. Two weeks ago, Judge Jones stopped the jury trial because the jurors heard squirrels running overhead in the dropped ceilings and they were afraid the squirrel was going to drop in the jury box and that's no way to conduct a trial. In the last several years, these are the places that have put up new circuit court buildings: Newport News, York County, Williamsburg, Isle of Wight, Suffolk, Gloucester, Mathews, Middlesex, Virginia Beach and Chesapeake. The only jurisdiction with a building as outmoded as ours is Portsmouth. It's being replaced. Norfolk is next. Once those two buildings go up, we will have the oldest courthouse in the area by 70 years. The next oldest courthouse is Virginia Beach which went up in the early 1980s. Now we have a saying in Hampton and where we are now is we now have the oldest continuous still in use circuit court building and that is not a good thing. It is not safe. It is not conducive to the administration of justice and I know well because I said I've been there more than 1,000 times. On behalf of the Bar Association, we urge you to build a new courthouse.

Ms. Elizabeth McCoury made the following statement: My name is Elizabeth McCoury and it is my honor to serve as Executive Director of the Coliseum Central Business Improvement District. Coliseum Central represents over 650 business and property owners in the City of Hampton and I am here tonight to speak in support of the bond issuance specifically as it relates to the building of a new courthouse. One of the reasons Coliseum Central was formed was for public safety and this is really a public safety issue so I urge you to vote in favor of the bond. I was involved with the dedication of the courthouse in Suffolk. There are old courthouses now being used as wonderful visitor information centers. There is life for old buildings. However, for the safety of your public safety officers, for your citizens, for your businesses who have to go there to conduct their business, I urge you to vote in support and I do have five members of our Board of Directors here with me this evening. Thank you and thank you for your service to the citizens.

The Mayor asked that the members of the Board of Directors stand.

Mr. Eddie Deerfield made the following statement: I gave the Clerk of Council a copy of the National Center for State Court's Steps to Best Practices for Court Building Security. I'm sure it's something that nobody on Council has read or should have read before we turned around and decided on the courthouse. I also have here the Virginia Courthouse facility guidelines which again I doubt that anybody on Council has read because there are guidelines in here on building a courthouse, you should have turned around and had a citizens' committee involved with this with members of the Manager's office and members of Council and the public all coming together and talking about this, excellent book on how to build a courthouse. It's a sad day when our leaders have to resort to scare tactics to try and get what they want. I am referring to this article in the James River Journal on June 6, 2011, "Why Hampton needs a courthouse?" You state,

"Suppose you are a rape victim braving a court appearance against your rapist and you find him beside you walking into the courtroom; or a parent of a murdered teen facing an unrepentant killer and his family in the hallway during court recess." Do you really believe this is happening? You fail to state that there are court deputies walking around observing what is taking place. There was ample security when the man who killed my daughter went to trial just as there are at all trials. If these supposed dangers exist then it's a negative reflection on Sheriff B.J. Roberts and his staff and he has not been asked in front of Council on the activities. I don't believe these scare tactics exist. Now this afternoon, we turned around and had a man come in here – I don't know who he was or where he was from and now, they're saying there are going to be car bombs put in front of the courthouse. I tell you that it's really something. I have read the Executive Summary Security Review for the Circuit Court facilities in Hampton – and this is from Stuart. It's the Council's consultant's opinion that some of the security issues can be improved through better security systems, cameras, door controls and procedures. It also goes on to say it needs a complete renovation of this facility but because of the age of the building, the cost to renovate will be impractical. What is the cost of that renovation? I don't think anybody knows. If it is to be renovated for a Pirates Museum, what will be the cost of that? The cost will be after the $500,000 it will cost for consultants and whoever.

Mr. Rick Bagley, 5 Oldenburg Lane, made the following statement: I'm not here to talk about the merits of the Courthouse. I spent my 30-year career in Hampton trying not to go to the courthouse but I am here to talk about it from the standpoint that this is a significant investment for the City of Hampton and like most investments, timing is critical to everything you do. Now, right now, I agree with Councilwoman Leary that I believe that the construction community is extremely hungry. I have several clients that are contractors and on average, I'm hearing that major construction projects are running 20% less than they were just two years ago. I saw Paul Burton today, Ms. Hudson's predecessor, who said that Isle of Wight, when they had their courthouse designed, the original estimates by the architect were $16 million. They brought that project in for less than $11 million. Now, if we start to look at really taking care of the taxpayers' money in the City of Hampton, this is a perfect opportunity to capitalize on what has been the worst recession since the Great Depression which is a huge cost-savings that we could have upfront. Now, the other cost savings that's critical to this timing, and it really plays back on the fear that everybody has, is looking at what the Federal Reserve has done with interest rates. If you look at the chart that I gave you, it goes back about ten years and it shows short-term interest rates and the action of the Federal Reserve whenever there's a crisis and you can see back on 9/11, they lowered the short-term interest rate, the 90-day T-bill rate to about 1%. Now, as the economy started to improve, rates were raised all the way to 5% in the next two to two and a half years. Now, right now, we're blessed with rates that are a fraction of 10% and our bonds are going to be priced off of these current interest rates. Now, long-term rates are significantly higher than short-term rates but they move in concert with each other. So I'm bringing a short example – we're building a $30-million house and we have an interest rate of 3.5%. Our total outlay over that period is $48 million. If we build our $30 million house and we have a 5.5% interest rate over that period of time, the total cost is $61 million. So if you consider the cost savings on the interest payments over time and you consider the upfront savings despite the fear that's in the community about what's going on in the economy, Hampton is strong. We're an AA+ credit. If anybody's worried about how we're spending our money, Standard & Poor's and Moody's don't agree with the people that think that we have been irresponsible with our indebtedness. So this is a huge opportunity. I don't

know whether we should or should not build a courthouse but if we're going to do it, if you already voted to do it, now is the time to do it. Thank you.

Mr. Edwin Boone, 48 Snow Street, made the following statement: This is not the time to build a courthouse. With the track record Hampton has, no one in Hampton is going to get any of the work. The construction work, it's still down [0.01]%. They got the four votes when they initially started. There's no public input. No one could get up and talk. Everybody had work. Now, they come with this next meeting, the second meeting is to vote for and they got their four votes, maybe. It's up to you, Chris Stuart. You barely got in there with 50, 55 votes. Election time is coming up, if you vote with the other ones you vote with, they're not going to be around next election so I'm thinking you should consider where you stand if you plan on being a career politician, a one-termer because the other ones are not going to be here. They're not going to make re-election and the people against it [only one-fourth] are the ones wearing a suit but the blue-collar workers, the taxpayers which is the majority, that's what my job is to get the people involved to get them to vote. Otherwise, you see what happens, a very few, a select few can run this City and run it into the ground. Your income and whatnot, all your money going to taxes and you're not benefitting from it and you're definitely not getting any construction or jobs here in the City. So that's why most of the people are leaving because there's no hope here. There's no possibility here and the burden is on the taxpayers.

Mr. Brad Brown of Robert and Brown and Associates made the following statement: Our family owns several commercial properties in the City. I also am a past resident of Mill Point in Downtown. I currently live in Poquoson because that's where my children's grandparents live. I was a very active volunteer in the Coliseum Central Board as Elizabeth mentioned, as well as serving on the City's Zoning Advisory Committee; therefore, I feel pretty invested in what is going on. I think just to point out a few factual topics; my understanding is that the courthouse and the funding is part of the capital plan. I've been to a lot of the CIP planning meetings. There is a vast amount of public input so just to counter some of what I think are factually-incorrect statements, I think the public has been very involved with this. If I know anything about Hampton, it does an excellent job of getting citizen input. Just the big picture really, it does seem to be an issue of safety. I was at a business round table discussion this morning with folks from Downtown and the Coliseum. Everyone in the room has a story about sitting in the lobby where you're a witness whether it's a civil matter, whether it's a criminal matter and the defendant is walking by and if it is a volatile situation, it's not good to be a witness in that situation. The Sheriff's Department does a great job but to trust a deputy to react within that close a proximity I don't think is prudent. It appears the City did hire a topnotch consultant. I looked at the website. They have over 40 years of experience and have done a number of these projects. Just to dovetail on what Mr. Bagley said, interest rates are at an historic low. I'm a fiscal conservative but it's just like buying a house right now. If you can come down with a down payment and you buy a house right now, it is the perfect time to be a buyer. The City of Hampton is a buyer in this situation. Construction costs are very low. We recently completed an office building and it came in 15% below budget. I implore you to move forward with this funding. Please take action tonight. Thank you.

Mr. Rudy Langford made the following statement: "I was for it before I was against it" – John Kerry, 2004. That killed him for president. I'm here tonight to oppose the courthouse. Now, no one in this City has visited that courthouse more than I have.

Since 1996 when Judge Andrews went on the bench, we have had a program in place. We have an internship program in place now where we're in that Courthouse Circuit Court at least three times a week and if you do the numbers, that's over 1,800 times a year. Multiply that by fifteen years. That's a fact. Now, we have 32 circuits in the state of Virginia. It's true that ten have built new courthouses but not because of security breach, because of space. I was in Isle of Wight. They just finished completing one in Isle of Wight not because of security breach but because of space. In Newport News it was not because of a security breach, it's because of space. Now after I heard a young man present at your workshop, I ran down to the Circuit Court because I couldn't believe what I was hearing. I'm in there every week with my interns and I went down there, it's not ten, [entrances] to that courthouse, it's eight and in the [rear], six of them are boarded. Linda, the Clerk of Court has a key that those doors are secured all the time. You cannot go from the rear like the gentleman said today and go to Judge Taylor's chambers and then to his courtroom. Impossible! I hear all this stuff about they come in contact with jurors. I see Sgt. Jones all the time. He can tell you. I mean all the time. You do not need a courthouse that has no breach of security. B.J. was – they tell you, our Sheriff, "Oh, yes, I want a new courthouse" but he would tell you that there's no breach in security. I know it's a done deal. I know that but I'm here to tell you that the guy you paid money for that study, I know him from Gaston, North Carolina. He did two. You asked a question where - is he internationally known? Absolutely not and Ms. Bunting, no discredit to you, I don't know where you got him from. He can't spell. He can't count. I spoke with him at length and he showed me some drawings. [Am I] correct? I am just frustrated and then Attorney Boester stood here. He's visited a thousand times. I've been in that court building over 4,000 times. I know it's a done deal but Mr. Stuart, vote your conscience, son. Vote your conscience.

Mr. Larry Cumming, 2236 Cunningham Drive, made the following statement: I've been a citizen of Hampton all my life and I also have been a lawyer for more than 35 years I must admit. I am in court regularly, certainly not as often as Mr. Boester but I have been in court regularly all during my career. The court system we have here runs excellently. They do a great job with the facilities they have. You have heard from a lot of citizens. Of course, Mr. Langford has been in court obviously frequently. I dare say the other members that have spoken before you have not. It is a facility that is in need of help. It is a facility that is in need of replacement. The other courts are in close proximity. The parking garage is needed more than anything else, you need a parking garage. In addition to the court system, it needs to be located in close proximity to the other courts as a convenience for all the parties that are involved. Lawyers go between courts constantly all day long. The location that you propose would be excellent and it seems to me that, of course, Mr. Bagley has described to you the reasoning why this current timing is appropriate and I agree with him. The point I'm trying to make here is that a court like many other facilities does not have a lot of public constituency. There are many people who do not understand this, don't understand its function, don't understand the service that it provides to the community and it's easy for them to say, "We don't need that. What I need is a new road. What I need is a new piece of pavement." It is hard for you to understand how important a well-functioning court system is but as a lawyer, I can tell you, it is a critical element of our system of government and governance for our community and Mr. Stuart, I assure you there are plenty of voters out here that will vote for you if you vote in favor of this. I understand all this pressure on you this evening is totally unfair and I hope sincerely that you will steadfastly support this project. Thank you very much.

Mr. John Ishon, 108 East Queen Street, made the following statement: As a business owner in Hampton, I think it is important that we as a community honor what we say we are going to do. Council made a commitment to move forward with this courthouse and I think it's important to the business community to honor what you said you're going to do. The parking is crucial. If the parking deck is not added to the courthouse then the overflow will spill into existing parking that will affect retail businesses in downtown. I ask you to support this and move forward with that tonight. Thank you.

Mr. Frank Ottofaro, Sr., made the following statement: Norfolk Federal Court has been put on the backburner and the Federal government got more money than we have. We got a budget to meet. You got a nice courthouse on the corner of Pembroke and North King Street. Go to night court. You put a night court in and you put the worst cases in during the daytime and the night court at night with the milder cases. That would solve that problem. You have security and everything. You got a nice old courthouse. All over the country, small towns, small cities, they got a courthouse been there the day they built them, and they still use those courthouses and so forth. Why do you want to build another new courthouse? We're all on budgets. Where else is the money coming from? But you got to listen to the people. You got to listen to the people on the thing. You don't need a new courthouse but if the City government or City Council cannot take care of complaints from the citizens, I recommend the City government to set up offices to handle the problems or the complaints. I also recommend the citizens of Hampton form a watchdog committee to oversee the City government at Council. If the City of Hampton cannot take care of important problems of this City, I suggest a citizen panel to look into these matters but don't build a courthouse. Go to night court. No problem. You just fill the nice parking lot behind the Greyhound bus station over there. You haven't had problems in this City, people going to courthouse. I was born and raised in Newport News. I've been living in Hampton for 52 years in the city. What's the problem with not having enough parking spaces? You don't need no parking garage. You put a new parking, a lot – let people walk. Good exercise for other people. I appreciate it. My birthday is June 13th. God bless you all but I got an important problem I'm working on right now. Thank you.

Mr. Johnny Carroll made the following statement: My name is Johnny Carroll. I'm glad to be speaking again. Ladies and gentlemen, what we are witnessing tonight is something that should've happened this weekend. It's what's called a Pirate Execution. Now, how do pirates used to execute a person is that they would go to the beach and they will wait until a low tide and dig a hole and they will place that person in the hole so that they couldn't stand up and once they fill the sand bin, what happens is that the tide runs its natural course and the individual who is accused drowns and right now, we're drowning to a $38-million debt. Now, this isn't something that happens right away. We made decisions like this before like H2O that's hardly filled. Like Town Center which – how can I say, when it got built, we all of a sudden found out we had hidden parking fees on our receipts and now we are being told that – how can I say, the security is bad at the courthouse. Well, I don't think it was a little bit insecure and we had to preclude – how can I say – the individual from a discussion with Buckroe. It was secure for him but for the rest of us, we have to sit back here and go through this. Go through a trial? I think we can do better with this $38 million by keeping it in our pockets. Thank you very much.

As there were no additional speakers, the Mayor closed the public hearing.

Councilman Kearney stated he would move for approval of Item 19 but wanted to say a couple of things in doing so. He had concerns and they've been addressed by Ms. Bunting and he appreciates that. He has lived here a long time. He was very blessed that his uncle, Frank Kearney, was a Judge with the 11th Judicial Circuit when there was only one Circuit Court and only one Circuit Court judge, the 11th Judicial Circuit and now there are four Circuit Court judges. We heard numerous times over the past years, maybe not most of us in the room but those of us either involved in historical preservation or in government, how the humidity has affected the deeds and the records stored there.

Councilman Kearney continued stating accessibility is very important not only do people who come to the area not know where the courthouse is and you have to say, "Well, go down and look for the building with the big round columns in the front" because it's nowhere near where the local government is located. There is not a great deal of parking there because it's hidden in the back for one thing but accessibility also for those with the Mayor's Committee for People with Disabilities getting into that courtroom. There is almost a vertical rise of the steps to go in which may have been nice in 1910 when they remodeled it but the idea is people who have disabilities have no way of entering unless they can find that little elevator which had been put in by Judge Kearney after he'd had a difficult leg operation. As the story goes, he put in an old Lotus elevator himself until he could get reimbursed by the county later. The elevator is still operating and that was installed in 1953. Structurally, the building is in need of some sort of care. He stated he asked a preservationist, "Well, why can't you just go in there and shore the building up and let them meet somewhere." They could meet in here if they wanted to over a year and fix the building up but the way it is structured with narrow walkways on the Clerk's side and you have the other side that goes back to the new courtrooms in the back which were the offices of the Commissioner of Revenue and the Treasurer, those walls are actually support walls and are very thick, and there's no way to tear those out without the upper floors coming down.

Councilman Kearney continued stating although it is not the political thing to do, the time has come to replace the building. He is definitely not suggesting that the current building be torn down, rather he would hope there will be other uses for the building such as museums or other agencies we have in our community that we've had to farm out to other areas. He believes the current courthouse can be made useful and would be an advantage to downtown and to the community. So for the reasons that he addressed and for his other questions being answered earlier, he stated he is going to move to adopt.

Vice Mayor Wallace stated he noted he will second the motion, however, wants to make a comment. The easy decision for him tonight will be to respond to just the people he heard in this room who are advocates against the courthouse and that will be the popular decision. However, he has a responsibility to the other people that voted for him that are not in this room and they say, "George, I voted for you to use your judgment and I trust you to make the right decision." The right decision for him is saving this community $20-plus million over the life expectancy of the debt. So it's not a simple thing but we can afford it now. We can't afford not to do it now. The need is acute and has been justified and now is the time to address that need. Tonight is the consummation of that community process in terms of finally putting the funding in place to do what this deliberative planning process has stipulated for us to do. Those are points he wanted to make and he seconds the motion.

Councilman Tuck called for a substitute motion and asked that the two bond issues, the courthouse, schools maintenance and other design projects, be separated.

The Mayor asked that Councilman Tuck repeat his substitute motion.

Councilman Tuck asked that the two issues here, the courthouse and garage funding and the school maintenance and other design funds be separated.

Following additional discussion, the Mayor asked Councilman Tuck if he was asking that the funding for the courthouse and garage be taken out of the motion. Councilman Tuck responded, yes.

Councilman Stuart referenced Councilman Tuck's motion and asked if the bond experts that were present could address the ramifications of going forward with two separate bonds and whether that is advantageous for the City.

Ms. Hudson asked Councilman Tuck if he wanted to vote on a bond resolution, one with a different not-to-exceed amount that's tied to the cost of the parking garage and courthouse alone and, depending on what the success of that one is, another resolution that's on the remaining projects to be funded with the other amounts that have been proposed? Councilman Tuck responded, yes.

Ms. Hudson stated she didn't see any problem with it unless Bond Counsel tells us that's an irregularity in this process.

Mr. George Scruggs addressed the members of Council, Madam Mayor, City Manager, and made the following statement: My name is George Scruggs with Kutak Rock in Richmond, Virginia. I'm Bond Counsel for the City. You can certainly separate the projects if you want to and vote on them separately if you want to end up with two bond resolutions, which is what I think this process would result in. We would need a not-to-exceed amount for each separate resolution so that if one were to go forward and one were to fail, with respect to the one going forward, we would know how much we could issue bonds for with respect to those projects.

The Mayor and City Attorney requested a not-to-exceed number for the two different issues.

Vice Mayor Wallace asked Mr. Scruggs, in this instance, would they have to pay two bond issue costs?

Mr. Scruggs responded that it would depend upon how the City wanted to move forward. It's possible to adopt two separate resolutions at the same time so we end up with one bond issue as if we were only approving one bond resolution. On the other hand, if you wanted to separate the financings, well, then we would have two separate bonds issuances with two different costs.

In response to the Mayor, Assistant City Manager James Peterson stated that the separation would be $29 million for the courthouse/parking garage and $9 million for the schools. However, because there are other costs associated and you don't know how it will be priced he would say $30 million and $10 million.

Ms. Bunting commented that she is very nervous about doing it this way because the actual amounts that were in the bond issue were the $29 million for the courthouse and garage, $4.89 million for the school maintenance and renovations, half a million for the relocation of 911 and 311 design work and then a half a million for the commitment we had made to the Old North Hampton neighborhood to work with them on features relating to the police firing range. That all added up to $34.89 million. The difference between that and the $38 million was the not-to-exceed amount for closing costs and the like. So now that we're talking about splitting it out, she is not exactly sure how to size up right here on the spot the $29 million component and then the remainder which is roughly $6 million - $5 million, $6 million and she would hate for us to say, "We'll just add $1 million each side and be wrong about that." She noted it would've been very helpful to have had that question in advance so we could've been comfortable in the guidance that we're giving you.

Ms. Bunting continued stating we may have to overestimate, understanding we wouldn't exceed that amount just to be on the safe side because it would really be a shame to put an arbitrary amount there and then not have the right amount for closing costs.

Mr. Peterson agreed stating that is why he said you would have to opt it on both sides because you don't know what's going to be in the market place when you actually try to size the bond issue.

In response to Councilman Tuck, Ms. Bunting stated they would have to defer to Sarah Grear, the City's Financial Advisor on the appropriate plus amount on each of those components.

Ms. Grear made the following statement: I am Sarah Grear from Public Financial Management, the City's financial advisor. If we're going to split it out like this as the Manager said, we should be conservative and estimate higher to make sure we cover it. We'd only borrow what we need. When we go to the market and looking at the numbers, I'd recommend $9 million for the non-courthouse project and then plussing up the $29 million for the courthouse to $35 million, that gives us about a 20% cushion. That covers cost. It covers some difference between technical things that we need to fund when we finance the bonds.

The Mayor suggested that Council vote on the substitute motion.

Councilman Tuck stated he would like to withdraw his motion.

Ms. Hudson stated she would like to make a point of order here and Councilman Tuck just so we're clear and that the record is straight with respect to the nature of the action that you're taking from a parliamentary perspective as a bond issue is a very important vote to take. Her review of the parliamentary rules indicates that this is not technically a substitute. You're really doing something else. It's an extremely significant amendment of the motion that was originally made. I know it's hyper technical but I think it's necessary so essentially, what Councilman Kearney has moved to do is that Council approve the bond resolution with the not-to-exceed amount as set forth by staff in the agenda materials at $38 million which is tied to a certain enumerated or described set of projects. You're saying you'd like those projects voted on separately for bond funding authorization purposes. So if you don't mind that friendly change to accomplish the

same thing, she believes we'll be in a better place parliamentary-wise. So if you divide the question on the basis that Ms. Grear has just described and assuming that Council approves the division of motion in that way then we'll be on better footing from my perspective.

Mayor Ward asked that Council vote on Councilman Tuck's motion.

Vice Mayor Wallace interjected that he wanted to know the numbers he would be voting on.

Ms. Hudson suggested taking a short break to determine the numbers.

Councilman Tuck stated if the number is going to be $44 million, he withdraws that motion; however he would like to offer a substitute motion.

Ms. Hudson asked for clarification from Councilman Tuck that he wanted to withdraw his first substitute motion and offer another substitute motion.

Councilman Tuck stated yes and suggested taking $16 million from already appropriated funds, already borrowed bonds and he could identify where those sources are and that we use that amount and we borrow the additional up to $38 million for this particular bond issue and it would come from the Buckroe Acquisition which is $958,750.38, Coliseum Crossroads Parking 2 $1,514,242.22, Kecoughtan Acquisition, $2,425,821.84, Downtown Master Plan $10,626,020.49 and in Other Bonds, Blighted Property Demolition $500,000.00 for a total actually of $16,024,834.93.

The Mayor stated the City Attorney is advising her that that's really not a substitute motion because you're really asking that we take the money from someplace else. Right now what we have on the floor is a motion and a second to approve the $38-million bond resolution as provided in Item No. 19. So that motion is not an appropriate substitute.

Ms. Hudson noted that essentially, the motion that's on the floor is that the bond resolution be approved as set forth in your agenda materials. To move instead and have that motion take precedence over the motion on the floor, it has to in some way amend it. In this situation, a motion to substitute is basically another way of wording or describing a motion to amend. In this situation, essentially, what you're suggesting from her hearing is that you vote down the bond resolution and instead not issue bonds in this amount and take the money that we're proposing to use for these other projects from existing sources.

Councilman Tuck agreed and stated some additional borrowing would still be needed.

Councilman Stuart stated with all due respect to Councilman Tuck's suggestion or motion, he is deeply concerned that we would enter into a change here, into pots of money that have been allocated for other specific things and Council is elected Citywide and we've heard about projects in Buckroe and Coliseum Crossing and Kecoughtan and Downtown. He commented he can't even begin to imagine the ramifications of taking funds from here, there and everywhere and if there's ever been a reason for a public hearing, I would imagine that particular list would be a very good one. He stated this suggestion is deeply troubling to him.

Discussion following relative to proper procedure and the City Attorney requested a 5 minute recess to allow her the opportunity to check Robert's Rules to ensure the parliamentary calls we are making are absolutely correct as she does not want to deprive anybody of their right to have these motions heard in proper order.

The Mayor adjourned the meeting and called the meeting to order following a short recess.

Following recess, the Mayor stated the City Attorney has concluded that the substitute motion is acceptable.

Councilman Tuck restated his motion to take existing bond funds, from the following projects, Buckroe Acquisition, $958,750.38; Coliseum Crossroads Parking 2 $1,514,242.22, Kecoughtan Acquisition, $2,425,821.84, Downtown Master Plan $10,626,020.49, other bods Blighted Property Demolition $500,000.00 for a total of $16,024,834.93 and then borrow the additional $22 million needed.

Councilwoman Leary stated she would second the motion to get it on the table for discussion.

Vice Mayor Wallace stated there are several complications here. One, this Council and previous Councils have made commitments to people who will benefit from these projects and now we are going back on those. He noted that detracts from the validity and veracity of the Council. Additionally, maybe next week someone will request an additional substitute and decide not to even do the courthouse. Of course, Council would have to vote on that. If we continue to revisit projects, nothing will ever get done. We will also have Bond indenture issues with the rating agencies relative to how we will expend these funds. How will we be perceived on future forays into the bond market in terms of what we say we are going to do. After Mr. Peterson scrubs the numbers, the amounts we talked about may be unavailable due to unforeseen circumstances. Additionally, community groups will no longer trust us. He stressed that Council should not do something of this nature on short notice without proper hearings with the groups affected.

Councilman Moffett also expressed his reservations, stating we are talking about efforts that have been discussed and money from a number of master plans that over the years many citizens have invested their time and energy in developing and here in one motion we tend to undermine everything that we have said about citizen engagement. He commented he believes that would be an unwise and hasty move.

Councilwoman Leary referenced statements about how Council is perceived and commented that apparently one of our own consultants thinks we don't show leadership. She stated she is not clearly satisfied that every opportunity for a different site has been investigated. She is concerned about lumping all of the City's offices into one spot. She also believes she has not received the information needed to help her make a clear decision. The closest thing she had was this report from 2009 until we started playing with the census and that report was tied to the census. She noted she will not support the motion to approve the bond resolution because of its ramifications. She understands the need to be cryptic in the consent agenda; however she does not like it because it doesn't lend itself to transparency. There are many reasons to build a new courthouse—the current courthouse is antiquated, not designed for the technology load,

is not handicap accessible, the heat and cooling system is horrendous and the elevator is sketchy at best. However, she asked herself four questions: has there been any disruption to the business of the court, no; has anyone had their rights infringed upon or compromised, no; is anyone in immediate danger, no; and does a new courthouse need to be constructed now, no.

Councilman Tuck stated his suggestion is not just spur of the moment. He has questioned these things before in reference to money that is just sitting there that the City is paying on. We have properties, if this is in fact the most important thing that Council will do, then why not use resources we already have so we don't take the City deeper into indebtedness.

The Mayor stressed the use of current resources has not been vetted by community.

Councilman Tuck's substitute motion is as follows: reappropriate funds from the City of Hampton's Bond Funded Projects Unexpended Appropriations as follows: Buckroe Acquisition/Demolition, $958,750.38; Coliseum Crossroads Parking 2, $1,514,242.22; Kecoughtan Acquisition/Demolition, $2,524,821.84; Downtown Master Plan, $10,626,020.49; Other Bonds-Blighted Property Demolition, $500,000.00 for a total of $16,024,834.93 and reduce the bond issue by that amount.

The Mayor called for the vote on the main motion.

Councilman Moffett requested the opportunity to make his position relative to the Courthouse clear. The records reflect that he has never disputed the need for the new courthouse. The question that he has raised over the past 24 months is simply do we need a new courthouse given the many other priorities of the City. After being elected to Council, he cited the uncertainty of the economic climate and what he thought of as a lack of compelling evidence that a new courthouse was a top priority. Likewise he fully supported a motion for a two-year delay in the construction of the courthouse. After a one-year delay, he has reviewed the recent threat assessment done by Stewart, Cooper & Newell Architects, and not only did he review the assessment, he also consulted with persons with experience in anti-terrorism as well as force protection to get a variety of opinions and he wants everyone to know that they concur with the consultants' findings. He is alarmed by the threat assessment. However, he wants to acknowledge the viewpoints of those who honestly believe that since we have not had an incident, that we should not invest tax dollars during these economic times. He stated his belief that we cannot afford not to build the courthouse now due to the potential liability that the City might incur in the event of an incident, the cost of which may exceed the cost of the courthouse construction. He reiterated that the City could potentially incur liabilities that would exceed the cost of the new courthouse. The courthouse is 135 years old and is an extremely dangerous facility and an invitation to disaster. Given the information we now have, this elected body is responsible and it would be reckless and irresponsible to put our citizens at risk. He noted he fears for the safety and security of our citizens, the judiciary, and law enforcement personnel. This afternoon Councilman Tuck asked a question about the courthouse and we received from our Communications Strategist a number of responses from those who work in the courthouse. Victim advocates have stated that witnesses have been intimidated by defendants and on other occasions they have had to get between witnesses and defendants. He stated just because we have not had an incident, does not mean we won't, and cited what happened on 9/11, at Pearl Harbor, and at Oklahoma City. He stated there is a high concentration of military in this

community, which makes it a high target. He called upon his fellow Councilmembers, the City Manager and the community to remove the information relative to this danger from the website as it is impossible to know who has access and might wrongfully use the information. Additionally, he stated he is also concerned about the media's use of this information which also opens the City up to additional danger.

Councilman Moffett concluded by stating he will vote in favor of the motion, not because it is the popular or political thing to do, but rather because his conscience tells him it is the right thing to do.

Councilwoman Leary stated she believes the City has done the citizens a great injustice by the way this has been handled. She stated there is a place in this City called Risk Management and we have set ourselves up for anyone who wants to walk in there and cause a problem, they have a clear ticket to do so. If someone wants to walk in there between now and the time the new courthouse is built, we have given them the ammunition they need. If the situation is as bad as is reported, why are we building another courthouse in the same location. She reiterated her belief that we have done the citizens an injustice, the reports have been alarmist and citizens will have to use the current courthouse between now and completion of the new courthouse.

Councilman Stuart stated the issue is not whether or not to build a new courthouse that has been debated and approved by two Councils, the item on tonight's agenda is to approve the funding for the courthouse. In the interest of good government he believes the funding should be approved now while rates are favorable to the taxpayer. He will vote in favor of the motion.

Councilman Tuck provided statistics relative to the use of the courthouse, stating out of 365 days, something was scheduled for 238 days. Only 31 days in 2010 were all courtrooms in use. He stated the courthouse is not over-utilized. He reiterated his belief that the Sheriff should have addressed Council about the safety concerns. He referred to documents detailing things you can do to secure a courthouse. For 18 months we will still be in the same insecure and threatening conditions and he has asked what is being done to secure the courthouse and has not received a reply. He stated he does not believe now is the time to fund the building of a new courthouse and suggested waiting until we see how Ft Monroe works out for the City. He also does not believe the hotels have hit bottom. He will not support the motion.

General Items

Ordinances

20. 11-0174 Ordinance to Amend and Re-enact Chapter 22, Article III of the City Code of the City of Hampton, Virginia Entitled "Noise Contour District", by Amending Sections 22-51 - 22-54.

APPROVED - this vote was on #11-0184 and #11-0174.
Motion made by: Councilmember Angela Lee Leary
Seconded by: Councilmember Christopher G. Stuart
Ayes: 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Appointments

21. 11-0098 to consider appointments to the Hampton Arts Commission

REAPPOINTED Alvin Mann and Steve Prince to their second terms which will expire on June 30, 2014, and reappointed George Ward to his first full term which will expire on June 30, 2014. One vacancy remains unfilled.
Motion made by: Councilmember Ross A. Kearney, II
Ayes: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 1 - Donnie R. Tuck

22. 11-0105 to consider appointments to the Virginia Air & Space Center Board of Directors

REAPPOINTED Melanie Rapp Beale, Frank A. Edgar, Jr., and F. Lewis Wood to four year terms expiring on June 30, 2015.
Motion made by: Councilmember Ross A. Kearney, II
Ayes: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 1 - Donnie R. Tuck

23. 11-0168 to consider an appointment to the Hampton Redevelopment and Housing Authority

APPOINTED Stephen Adams.
Motion made by: Councilmember Will Moffett
Ayes: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 1 - Donnie R. Tuck

24. 11-0170 to consider appointments to the Citizens' Unity Commission

REAPPOINTED Elizabeth (Anne) Andrews, Robert L. Lewis, Sr., and Mark Board to their first full terms which will commence on July 1, 2011, and expire on June 30, 2015, and reappoint Sherri Reese to her second full term which will commence on July 1, 2011, and expire on June 30, 2015. Several vacancies remain.
Motion made by: Councilmember Ross A. Kearney, II
Ayes: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 1 - Donnie R. Tuck

25. 11-0175 to consider appointments to the Hampton Senior Citizens Advisory Committee

REAPPOINTED Clarice Jackson to a second term. A vacancy remains for the unexpired portion of the term of William Tyrell.

Motion made by: Councilmember Ross A. Kearney, II
Ayes: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 1 - Donnie R. Tuck

26. 11-0196 to consider an appointment to the Hampton Parking Authority.

APPOINTED and designated Victor Hellman to serve as the Hampton City School representative in the place of Charles Roberts. A vacancy remains for the unexpired portion of Robert Allsbrook's term.
Motion made by: Councilmember Ross A. Kearney, II
Ayes: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 1 - Donnie R. Tuck

27. 11-0203 to consider appointments to the Peninsula Stadium Authority.

REAPPOINTED Wanda Gomes and Tim Smith retroactively to September 30, 2010, for terms expiring on September 30, 2012, and indicated that future terms should be consistently set for term limits of two years.
Motion made by: Councilmember Ross A. Kearney, II
Ayes: 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward
Nays: 1 - Donnie R. Tuck

THERE WERE NO REPORTS BY CITY MANAGER, CITY COUNCIL, STAFF, COMMITTEES

THERE WAS NO MISCELLANEOUS NEW BUSINESS DISCUSSED

ADJOURNMENT

Molly Joseph Ward
Mayor

Katherine K. Glass, CMC
Clerk of Council

Date approved by Council _____