

**MINUTES OF THE CITY COUNCIL MEETING
SEPTEMBER 28, 2009, 7:00 P.M.
REGULAR SESSION**

PRESENT: The Honorable Gordon C. Helsel, Jr., Mayor
The Honorable Arthur V. Holloway, Jr., Vice Mayor
The Honorable Carey L. Freeman
The Honorable E. T. "Tom" Meree
The Honorable Traci-Dale Crawford
The Honorable W. Eugene Hunt, Jr.

J. Randall Wheeler, City Manager
Judy F. Wiggins, City Clerk
D. Wayne Moore, City Attorney

ABSENT: The Honorable Frank A. Kreiger

MEETING CALLED TO ORDER:

At the conclusion of the work session at 6:15 p.m. it was the consensus of Council that because of the additional time remaining before the regular meeting to go into Closed Session. Mayor Helsel therefore called the regular session to order for that purpose at approximately 6:20 p.m.

CLOSED SESSION:

Councilman Meree moved, seconded by Councilwoman Crawford, to go into closed session pursuant to Sections 2.2-3711(A)(3) and (A)(7) of the Code of Virginia (1950), as amended to discuss the acquisition of property for public purpose; i.e. park, consultation with legal counsel and briefings by staff members pertaining to actual litigation; i.e. BZA variance and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice; i.e. Rens Road property. Recorded vote on the motion:

YES: Councilmembers Crawford, Meree, Freeman, Holloway and Mayor Helsel.

NO: None.

(Councilman Hunt arrived during the Closed Session.)

RECONVENEMENT:

Upon reconvening from closed session at approximately 7:00 p.m., Councilman Meree moved, seconded by Councilwoman Crawford, to adopt a resolution certifying that only the acquisition of property for public purpose and consultation with legal counsel pertaining to actual litigation and specific legal matters were discussed in the closed session. Recorded vote on the motion:

YES: Councilmembers Meree, Freeman, Holloway, Hunt, Crawford and Mayor Helsel.

NO: None.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Vice Mayor Holloway rendered the invocation and led the audience in the Pledge of Allegiance.

AUDIENCE FOR VISITORS:

Mr. David Foster, 213 Browns Neck Road; Ms. Roberta Anderson, 220 Browns Neck Road; and Mr. Ed Matheson, 236 North Lawson Road, thanked Council for listening to citizens and removing the Mixed Use Waterfront zoning designation for the property located at the end of Browns Neck Road from the proposed Comprehensive Plan and amending the Plan in accordance with the citizen surveys conducted in 2004 and 2006.

APPROVAL OF THE MINUTES:

Vice Mayor Holloway moved, seconded by Councilman Hunt to adopt the minutes of the regular session held September 14, 2009. Recorded vote on the motion:

YES: Councilmembers Crawford, Hunt, Freeman, Meree and Mayor Helsel.

NO: None.

ABSTAIN: Vice Mayor Holloway.

Councilman Meree moved, seconded by Councilwoman Crawford to adopt the minutes of the work session held September 14, 2009 as amended. Recorded vote on the motion:

YES: Councilmembers Holloway, Freeman, Meree, Crawford, Hunt and Mayor Helsel.

NO: None.

NEW BUSINESS:

1. WYTHE CREEK ROAD EXPANSION PLAN

City Manager, J. Randall Wheeler, reminded Council that the improvements to the southern end of Wythe Creek Road, including bridge and road improvements in the City of Hampton, have long been a priority for the City. The current 5-lane design for Poquoson's portion of the roadway is estimated to cost \$15 million with only \$5 million allocated for this project by the Virginia Department of Transportation (VDOT) in its Six-Year Plan. He pointed out that because the available funds are insufficient to cover the project costs, it is likely that the City will lose these monies if not utilized in the near future. He, therefore, was seeking direction from Council on whether to continue to pursue funding for the project and whether or not the scope should be modified from 5 lanes to 3 lanes to include bikepaths/sidewalks.

Mr. Wheeler explained that he had already met with Hampton representatives once and was scheduled to meet with them again in the near future to discuss the project and to encourage their participation. In addition, he stated that the City's representative on the Commonwealth Transportation Board, Mr. Aubrey Layne, was scheduled to attend Council's work session on October 26, 2009 to discuss the project.

Mayor Helsel thanked the City Manager for his efforts to move this project forward and voiced concern that the City could possibly lose the \$5 million VDOT funding if the project is not expedited.

Councilman Hunt stated that the City does not need 5-lanes on the southern end of Wythe Creek Road and stressed that 5-lanes would be more expensive and more detrimental to the environment, especially on Hampton's portion of the roadway. Lastly, he stated that a bikepath should be part of the plan and that NASA/Langley should be included in the discussion since the project would have a definite impact upon the Air Force Base and Langley Research Center.

Councilman Meree expressed support for a 3-lane road design since the narrower roadway would decrease the project cost and enhance the small town atmosphere of the City. He stressed that a bikepath/sidewalk was a necessity.

Vice Mayor Holloway agreed that a 3-lane roadway was all that was needed; however, since this roadway was one of the two exit corridors for the City, he stressed the importance of elevating Hampton's portion of Wythe Creek Road due to its frequent flooding. He suggested that for environmental and safety reasons a bridge be considered for the Hampton portion of the roadway since it is located primarily in wetlands. Lastly, he recommended getting York County involved since many of its citizens travel to NASA via Wythe Creek Road.

Councilwoman Crawford concurred with the 3-lane scenario, but emphasized the need for a bikepath/sidewalk adjacent to the roadway. She too suggested getting York County involved in the process.

The consensus of Council was that the City Manager, J. Randall Wheeler, should aggressively pursue a 3-lane improvement project with bikepath/sidewalk for the southern portion of Wythe Creek Road and to engage both the City of Hampton and York County in the process.

2. ORDINANCE MAKING ADDITIONAL APPROPRIATIONS AND TRANSFERS FOR FY 2010

City Manager, J. Randall Wheeler, stated that the proposed appropriations and transfers were self-explanatory; however, he pointed out that the \$1,800 transfer to the Inspections Department would complete the implementation of the automated permit management system which had been initiated sometime ago to increase the Department's efficiency.

Councilman Hunt moved, seconded by Councilman Meree, to dispense with the second reading and adopt the ordinance on first reading. Recorded vote on the motion:

YES: Councilmembers Hunt, Crawford, Meree, Freeman, Holloway and Mayor Hesel.

NO: None.

3. RESOLUTION MAKING AN APPOINTMENT TO THE PENINSULA AGENCY ON AGING

Councilman Meree moved, seconded by Councilman Freeman, to reappoint Marilyn Kuhn to the Peninsula Agency on Aging and to adopt the resolution with her name inserted. Recorded vote on the motion:

YES: Councilmembers Hunt, Crawford, Meree, Freeman, Holloway and Mayor Hesel.

NO: None.

4. RESOLUTION MAKING AN ALTERNATE APPOINTMENT TO THE HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION (HRTPO)

Although Council had concurred with the Mayor's previous recommendation that Councilwoman Crawford serve as his alternate on the Hampton Roads Transportation Planning Organization, the City Manager stated that a formal appointment of an alternate needed to be made.

Councilman Freeman moved, seconded by Councilman Hunt, to appoint Councilwoman Crawford as the alternate member to the HRTPO and to adopt the resolution with her name inserted. Recorded vote on the motion:

YES: Councilmembers Meree, Freeman, Holloway, Hunt, Crawford and Mayor Hesel.

NO: None.

5. RESOLUTION REAFFIRMING PARTICIPATION IN THE PENINSULA ALCOHOL SAFETY ACTION PROGRAM (Peninsula ASAP)

J. Randall Wheeler, City Manager, explained that a recent review by the State Commission on the Virginia Alcohol Safety Action Program (VASAP) revealed that Resolution No. 3503, previously adopted by Council, did not reference the relevant State Code sections that provide authority for the operation of the program. A revised resolution was presented for Council's consideration.

Councilwoman Crawford moved, seconded by Councilman Meree, to adopt the resolution. Recorded vote on the motion:

YES: Councilmembers Crawford, Hunt, Holloway, Freeman, Meree and Mayor Helsel.

NO: None.

AMENDMENT OF AGENDA:

Councilman Meree moved, seconded by Councilman Hunt, to amend the agenda to add consideration of the City's updated Comprehensive Plan for 2008-2028. Recorded vote on the motion:

YES: Councilmembers Crawford, Hunt, Holloway Freeman, Meree and Mayor Helsel.

NO: None.

Councilman Meree then moved, seconded by Councilman Freeman, to adopt the proposed Poquoson Comprehensive Plan 2008-2028 inclusive of all amendments recommended during the preceding work session. Recorded vote on the motion:

YES: Councilmembers Hunt, Crawford, Meree, Freeman, Holloway and Mayor Helsel.

NO: None.

COMMENTS OF THE CITY MANAGER:

City Manager, J. Randall Wheeler, reported the following:

- That a Household Chemical Collection will be held on Saturday, October 3rd from 8 a.m. to 12 p.m. at the Poquoson Municipal Building.
- That the second Revenue Recovery Program brochure, including the most frequently asked questions, should be delivered to every household by the end of this week.
- That a draft Work Session schedule was included in the Manager's Report for Council's consideration and recommendations.

- That Council's guidance is requested regarding a possible joint work session with the School Board on either a Wednesday or Friday evening (prior to football game) at the Middle School to discuss several topics including the CIP and budget.

Following a brief discussion, it was the consensus of Council to hold a joint work session with the School Board on a Wednesday evening at the Middle School as suggested.

COUNCIL DIRECTIVES:

In response to the numerous emails and phone calls received by the Mayor and members of Council regarding the Poquoson Marina project, Mayor Helsel read aloud for the record the following prepared statement:

"Members of Council, as you are aware the City recently received notice from Brad Brown of the intent of Poquoson Marina Associates L.L.C. to terminate its Contract of Development with the City of Poquoson. I was very disappointed to receive this notice over two years after the development agreement was executed on the basis that the developer has concluded that they will not be able to satisfy their obligations as the Developer under Section 13(n) of the Contract such that the project can be developed as contemplated in the Contract. For over two years this Council has stood ready to honor its contractual commitment and we remain so to this day. Before a final decision is made regarding the termination of the Contract, it is my hope that the City will have the opportunity to explore with Mr. Brown possible revisions to the approved Contract for Development that would allow Poquoson Marina Associates to move forward with a first class project. To this end, I would request the support of the Council to direct the City Manager to enter into discussions with Poquoson Marina Associates regarding this issue and report back to City Council within 90 days."

With the concurrence of Council, Mayor Helsel directed the City Manager, J. Randall Wheeler, and City Attorney, D. Wayne Moore, to move forward as quickly as possible in negotiations with representatives of the Robert Brown & Associates for a development that would be amenable to both parties.

Councilman Meree stated that although he had been in opposition to the high-density aspect of the proposed development, he did support the restaurant and upgraded marina portion of the project. Lastly, he welcomed Vice Mayor Holloway back who had been absent from the previous meeting.

Councilwoman Crawford agreed with the Mayor and expressed confidence in the City Manager and City Attorney to negotiate a mutually acceptable agreement. She thanked everyone who had contributed towards the completion of the City's Comprehensive Plan.

Councilman Hunt voiced his appreciation to Mayor Helsel for his excellent leadership throughout the marina project process. He expressed concern that those citizens who do not want any growth in the City are inciting fear amongst others which could lead to a continued decrease in school enrollment and stagnation of the City. He stated that he too

supports the marina project and looks forward to the outcome of the upcoming negotiations.

Vice Mayor Holloway stated that he too supports the marina project and as the Chairman of the Virginia Municipal League's Environmental Committee, he would like to see a project on this site that would be environmentally beneficial to the Bay and its tributaries and provide a revenue boost to the City. He expressed confidence in the City Manager's ability to negotiate for a project that will positively impact the community. Lastly, he voiced concern about maintenance of the City's improvements and infrastructure at Messick Point and requested that the City Manager investigate this matter and establish and enforce rules/regulations that would ensure that this area is well-maintained.

Mayor Helsel stated that he appreciated hearing from those citizens who support the marina project and assured the public that the City is supportive of a development that will be beneficial to the entire community. He asked the City Manager to keep Council apprised of his negotiation efforts.

Councilman Hunt stated that the Peninsula Health Department's decision not to continue the monthly health van visits to the City was extremely unfortunate since it provided much needed services especially to the elderly and underprivileged in the community.

Councilwoman Crawford stated that those in the community who did not have access to flu shots or other medical resources should contact one of the community/civic organizations who, she believed, would be happy to provide the necessary transportation.

At Council's request, City Manager, J. Randall Wheeler, stated that he would, verbally and in writing, request that the health van visits to the City be reinstated as quickly as possible.

ADJOURNMENT:

There being no further business, Councilman Freeman moved, seconded by Councilman Meree to adjourn the meeting. Recorded vote on the motion:

YES: Councilmembers Hunt, Crawford, Meree, Freeman, Holloway and Mayor Helsel.

NO: None.

The meeting was adjourned at approximately 7:55 p.m.