

**AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF HAMPTON,
VIRGINIA, HELD IN THE COUNCIL CHAMBERS, EIGHTH FLOOR, CITY HALL,
22 LINCOLN STREET, ON WEDNESDAY, JULY 13, 2005, AT 1:50 P.M.**

The meeting was called to order by Ross A. Kearney, II, Mayor, and upon a roll call, the following answered as present: Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Turner M. Spencer, Rhet Tignor and Ross A. Kearney, II.

City Manager Jesse T. Wallace and City Attorney A. Paul Burton, were also present.

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Mayor Kearney stated that Item 1, the Briefing on a Real Estate Matter in Downtown Hampton, and Item 9, the Pay Range Adjustment, will follow one another, because Ms. Mary Bunting, Assistant City Manager, is on maternity leave. The change will allow her to make her presentations first.

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05-00385 – Briefing - Real Estate Matter in Downtown Hampton

The City Manager stated that as part of the effort to save the Herbert House, the Council previously agreed to sell the Sunset boat ramp property to Bluewater Yacht Sales. Council is being asked to receive this briefing and discuss their desired course of action and Ms. Mary Bunting, Assistant City Manager, will conduct the briefing.

Ms. Bunting thanked Council for accommodating her at the start of the agenda.

Ms. Bunting reiterated that as part of efforts to save the Herbert House, Council previously agreed to sell the Sunset Boat Ramp property to Bluewater Yacht Sales when a suitable location for a new and improved ramp was located. This agreement was essential to securing Chris and Earl Hall's willingness to allow the Herbert House, which sits on their property, to be renovated by W.M. Jordan. Ms. Bunting noted that the Halls had been concerned about additional traffic and parking concerns and the boat ramp has always been problematic for them.

Ms. Bunting stated that Council appropriated funds in the FY 05 capital budget to proceed with building a new, larger, and substantially improved ramp facility and several properties had been pursued as possible relocation sites. The most promising was a piece of Hampton University owned property that did not work out as hoped. Secondary options are in the process of being pursued.

In December, 2004, staff notified Council of the Halls' insistence to bring more closure to the deal, and since all prior Council conversations had been in closed session, and the parties had all agreed to secure an alternative site before announcing the deal, the Halls felt as if they had nothing of substance to rely on. Ms. Bunting stated further, they had hoped to consummate the sale by the end of the calendar year but delays in finding the suitable site had not achieved that goal. Another concern was the ultimate price of the land. When the initial conversations began, there was a general agreement that the price would be predicated on market value, then estimated to be between \$120,000 and \$140,000. However, since that time, the market has substantially improved and the City assessments alone now far outpace the original "talking point" number. The Halls expressed a concern about having to continue to rely on an ever-changing price that was essentially out of their control since it was the City that had to find the alternative boat ramp and the process was taking longer than anticipated.

The Halls asked to make their case directly to Council and met with Council in closed session at the December afternoon session. Council heard the Halls' appeal and asked staff to come back with options and a recommendation at the January, 2005 meeting.

Staff's January recommendation was as follows:

- Authorize the Mayor or City Manager to sign a contract agreeing to sell the properties at such time as an alternate location is secured – this will address the Halls' concern that as Council members change and/or time passes, they have a secure agreement but also protects the City Council interest in not selling the property until an alternate location can be announced publicly
- Agree in the contract to sell the property at the current assessed value – this will address the Halls' concern that the price is constantly fluctuating
- Secure agreement in the contract that the City can lease back the property until such time as a new boat ramp is ready to open – the Halls have already agreed to this and it protects the City Council's interest in assuring uninterrupted boat service to the community

Ms. Bunting stated that after reviewing the staff recommendations, Council opted to adopt a resolution that contained these ideas with the exception of the point relating to price. Council did not feel comfortable guaranteeing the price at the FY 2005 assessment level and instead expressed its willingness to sell the ramp and related properties at the assessed value at the time of the actual sale which would be driven by the other deal points. This resolution was adopted in open session in January, 2005.

The Halls' received the deal terms via their lawyer, Charlie Huffman, shortly after that Council meeting and immediately expressed reticence on the price point issue. The Hall's feel as if they have done everything they committed to do and expect the City to fulfill what they believe were the City's commitments. All official documentation expresses the City's willingness to sell the property once a new boat ramp site has been secured and to do so at a negotiated, market-value based price. The Halls, however, go back to the original estimate of market value (\$120-\$140K) as the price they expected to pay and believe that the major variances in assessment value since that time (now over \$400K) are unreasonable. The Halls say that they should not have to pay the price of the City's delay in securing the site and want Council to agree to a fixed price. While they would clearly prefer the original market value estimate (\$120-\$140K), staff believes they would accept the FY2005 assessment of \$241,600. The Halls are very adamant about this issue and have expressed a desire to appear before Council again and have threatened legal action of "breach of contract" if they continue to be held to an ever changing price.

Mr. Charles Huffman, representing Bluewater Yachts Sales, Chris Hall and Earl Hall, stated that Ms. Bunting summarized what has been taking place since 2003 when the Herbert House was condemned and Bluewater Yachts Sales retained a permit to demolish the building. He stated that there was an agreement with the City and documents explaining the agreement between the City of Hampton and the Halls. This informal agreement set forth certain figures which were anticipated to be the value of the property and in 2003 that value was twice the value of the assessed property. He further stated that the City of Hampton would not accept any contracts until a suitable replacement ramp had been prepared, and the assessed value of this property has gone up 600% between 2003 to 2005. The Halls were presented with a resolution in April, 2005, from a meeting in December, 2004, indicating the City's willingness to sell the property at the assessed value at the time of closing. Another contract has been submitted to the City in an attempt to resolve this issue using the assessed value in 2004, although the delay was no fault of the Halls. The Halls have offered to close on the property and lease the property back to the City at no expense, or to enter into a contract giving the City a reasonable period of time to find a suitable boat ramp. Mr. Huffman stated that the Halls have lived up to their end of the agreement and are asking the Council to do the same.

Mayor Kearney stated that Council approved an agreement that the Halls didn't want to sign, which was based on the market value of the property. In response to Mayor Kearney, Mr. Huffman stated that an agreement could not be signed when there is a history of 600% increase in two years.

Mr. Chris Hall, owner Bluewater Yacht Sales, stated the City Manager presented in writing, a proposal to save the Herbert House. Understanding the need for additional space in the marina adjacent to the boat ramp, the proposal stated that the City would sell the property and the Halls' agreed to wait until a suitable location was acquired.

Councilman Gilliland stated that when this deal was originally made there were certain expectations, and circumstances have changed. The City did not expect it would take as long as it has to find an alternate location for the boat ramp and we still don't have one. It was not Council's expectation that the assessment would go up 600%. He recommended that the issue be revisited to come to a reasonable conclusion, and stated he did not think it was fair to have an open ended price in a real estate contract.

Councilman Gilliland stated because the City owns the property it is not on the tax rolls. When the title is transferred, the City will begin receiving tax revenue. He recommended that two Council members be assigned to a committee to review the issue.

In response to Councilman Turner Spencer, Ms. Bunting stated that a counter proposal from the Halls was received in June, 2005.

In response to Councilman Turner Spencer, Mr. Huffman stated that a contract was submitted to Council with a lease option arrangement which was submitted at the end of May and received no response in regard to that contract.

Councilman Tignor stated that he would like to contest the assessment in order to have the facts. He believes that the Halls and W. M. Jordan have held up their part of the bargain, just as the City has held up it's part of the bargain.

In response to Mayor Kearney, Mr. Hall stated that the property next to the Herbert House does not belong to Bluewater Yacht Sales and he is not the sole owner. He stated that the boat ramp is a bad neighbor because it does not serve the citizens well. He stated the ramp is too small and there is no management of the boat ramp.

Mr. Hall stated that the key issue is that the City, through the City Manager and Ms. Bunting, brought a proposal in writing; that had a price, and it obviously cost more than anticipated and Bluewater Yacht Sales is part of that cost. He stated that no one

would enter into an open ended time and price. He stated that he would welcome the opportunity to talk with the City to try to resolve the boat ramp issue.

Councilwoman Leary stated that she would like the opportunity to verify the assessment history that Mr. Huffman presented and recommended council representatives work with the City Manager and the Halls to reach a compromise.

Ms. Bunting stated that the Halls referenced the range in the proposal documents, but it was always an estimate, not a final negotiated offer and from the staff perspective there was never a commitment to a set price.

On motion of Councilman Gilliland, seconded by Councilwoman Leary, that formation a Council sub-committee comprised of Councilwoman Leary and Councilman Tignor to work with the City Manager, the City Attorney staff, the Halls and Mr. Huffman, to find a resolution, be approved.

A roll call vote on the motion resulted as follows:

Ayes: Gilliland, Leary, Sapp, JSpencer, TSpencer, Tignor, Kearney

Nays: 0

05-0448 – Pay Range Adjustment

Ms. Bunting stated that staff made a commitment to keep Council apprised of all salaries and how the City compares with the region. She stated that several years ago issues arose, specifically concerning the Public Safety Officers. Council authorized an 8% pay range adjustment for all public safety sworn positions. This was based on staff's recommendation which was predicated on all available information at the time. The 8% pay range adjustment was intended to bring Hampton level with Newport News and in the upper third of all localities. Council also approved an adjustment for all public safety personnel of 8% up to a maximum of \$2500 to avoid further exacerbating compression among senior personnel. Employees were also given their normal merit raises which range from 2-5%.

Human Resources has just learned that Newport News increased its entry level Public Safety salaries by an extra 2% effective July 1, 2005, meaning that their new starting recruit salary is now \$32,640 versus Hampton's \$32,000. Because all Public Safety personnel just received a 2% or higher merit raise; we are able to move the Public Safety ranges by 2% without considerable expense. The expense comes in with vacant positions when they are filled and employees who had not been here a full year and thus did not receive a merit increase. The cost for all currently employed public