

A Regular Work Session of the Chesapeake City Council was held May 15, 2007, at 4:45 p.m., in the City Hall Building, 306 Cedar Road.

**Present:** Council Member Rebecca Adams  
Council Member John M. de Triquet  
Mayor Dalton S. Edge  
Council Member Clifton E. Hayes, Jr.  
Council Member Ella Ward  
Council Member Patricia Pritchard Willis

**Absent:** Council Member Bryan Collins  
Council Member Alan P. Krasnoff  
Vice Mayor Dwight M. Parker

**Present from Administration:** Acting City Manager F. Anne Odell, City Attorney Ronald S. Hallman, Deputy City Manager Amar Dwarkanath, Deputy City Manager Wanda Barnard-Bailey, City Clerk Dolores Moore, City Engineer Eric Martin, Animal Control Coordinator Kathy Strouse, General Services Project Manager Steve Snyder, and other staff members.

**Also Present:** Virginia Department of Transportation District Administrator Dennis W. Heuer

**The Following Topics were discussed during the Work Session:**

- 1) Dominion Boulevard and Steel Bridge Bike Path
- 2) Animal Control

The Work Session adjourned at 6:10 p.m.

/dah

A Regular Meeting of the Chesapeake City Council was called to order by Mayor Dalton S. Edge on May 15, 2007 at 6:30 p.m., in the City Hall Building, 306 Cedar Road.

INVOCATION: Pastor Lara Barrett Bennett, Unity Renaissance Church

PLEDGE OF ALLEGIANCE: Council Member Bryan Collins

ROLL CALL BY CLERK OF COUNCIL:

**Present:** Council Member Rebecca Adams  
Council Member Bryan Collins  
Council Member John M. de Triquet  
Mayor Dalton S. Edge  
Council Member Clifton E. Hayes, Jr.  
Council Member Alan P. Krasnoff  
Vice Mayor Dwight M. Parker  
Council Member Ella Ward  
Council Member Patricia Pritchard Willis

**Absent:** None

**Present from Administration:** Acting City Manager Anne Odell, City Attorney Ronald Hallman, Deputy City Manager Amar Dwarkanath, Deputy City Manager Wanda Barnard-Bailey, Planning Director Brent Nielson, Assistant City Attorney Grady Palmer, City Clerk Dolores Moore and other staff members.

#### **APPROVAL OF MINUTES**

Mayor Edge advised that there were no minutes for approval.

#### **SPECIAL INTRODUCTION**

Bishop E. W. Jackson, Exodus Faith Ministries, introduced Bishop Friday Nnah, Time-is-Short Gospel Ministry, Aba, Nigeria, who offered a brief presentation to Council Members.

#### **PUBLIC HEARING**

#### **APPLICANTS, AGENTS, AND CITIZENS COMMENTS ON PUBLIC HEARING ITEMS:**

City Clerk Moore stated there were no speakers prior to the presentation of the public hearing items.

#### **PUBLIC HEARING ITEMS**

**A. R(C)-05-29 PROJECT: Falcon Pointe Rezoning** APPLICANT: Titon Development Inc AGENCY: Hassell & Folkes, P.C. PROPOSAL: A conditional zoning reclassification of an 11 acre parcel from M-1 Light Industrial District (10.5 acres) and R-8s Single-family Residential District (0.5 acres) to R-MF-1 Multifamily Residential District. PROPOSED COMP LAND USE & DENSITY: High density multi-family w/density not exceeding 24 units per acre EXISTING COMP LAND USE & DENSITY: Light industry and low density multi-family with density not exceeding 16 units per acre LOCATION: Terminus of Falcon Avenue TAX MAP SECTION/PARCEL: 1590000000510 BOROUGH: South Norfolk (Continued from the March 20, 2007 City Council meeting)

The Planning Commission recommends denial.

**The following revised proffers are offered:**

1. The owner/applicant agrees that the residential units resulting from this development shall be condominiums for sale.
2. The owner/applicant agrees that the residential dwellings constructed on the subject property shall be substantially similar in appearance to the building elevations depicted on the rezoning exhibit dated August 9, 2006. Materials to be used on the exterior of the residential dwellings shall include a mix of hardiplank and brick.
3. The owner/applicant agrees that the total number of residential units resulting from this application shall not exceed (75) seventy five.
4. The owner/applicant agrees that it shall provide acceleration/deceleration and left turn improvements at the intersection of Bainbridge Boulevard and Falcon Avenue as well as two outbound lanes on Falcon Avenue at Bainbridge Boulevard, in accordance with a Public Works approved warrant of need analysis to be performed by the owner/applicant prior to preliminary site plan submission. The owner/applicant further agrees that it shall widen Falcon Avenue to a minimum width of 24 feet and that all required paved improvements within the public right-of-way shall be substantially completed and dedicated as necessary prior to issuance of a Certificate of Occupancy for the first residential unit. It shall be the owner/applicant's sole responsibility to obtain any necessary additional right-of-way to complete the required improvements.
5. The owner/applicant agrees that a minimum two feet of clean fill material shall be spread on pervious common areas of the subject property exclusive of the landward limits of the fifty foot RPA to provide an effective barrier between the residents of the community and any potential landfill material contained below the ground surface, as recommended in the Risk Assessment dated April 17, 2006.
6.
  - a. The owner/applicant agrees that any and all wells shall draw groundwater from an aquifer shown to be free of contamination, as evidenced by a Phase 1 ESA, Phase 2 ESA, a Site Characterization Report, and/or Corrective Action Plan. Any and all wells on the subject property shall be approved by, and subject to the specifications of the Chesapeake Health Department.
  - b. All potable and non-potable uses of the shallow groundwater are prohibited on the subject property. The term "shallow groundwater" as it applies to this proffer is defined as the uppermost unconfined groundwater aquifer.

7. The owner/applicant agrees that any native materials excavated, removed and disposed of offsite shall be characterized for disposal and management according to Virginia solid waste and hazardous waste regulations. The use of "clean corridors" shall be deployed as appropriate and practicable in general accordance with Virginia Voluntary Remediation Program guidelines.
8. The owner/applicant agrees that a Health and Safety Plan (HASP) shall be created and utilized during development of the subject property to ensure the safety of site workers within trenches due to potential inhalation hazards from elevated lead levels within the uppermost unconfined groundwater aquifer.
9. The owner/applicant agrees that impervious materials or layers will be incorporated into all stormwater management ponds (BMP's) on the subject property to ensure that an impervious layer exists between the inverts of the BMP and the uppermost unconfined groundwater aquifer.
10. The owner/applicant agrees that prior to the initiation of excavation and land disturbance activities on the subject property, the activities shall be coordinated, reviewed and certified by a Qualified Environmental Professional (QEP) per the U.S. Environmental Protection Agency's approved All Appropriate Inquires Rule and applicable International ASTM standards, which condition will be included in the first deed of conveyance for each residential unit as well as the condominium declaration. This provision shall extend to all proposed and future land disturbance activities.
11. Information describing the history of environmental conditions on the subject property will be made available either through recording as a notice in the deeds or through inclusion in the condominium documents, in the following format:  
Disclosure Language:  
The owner/applicant shall provide full written disclosure statements within (i) the notes on all recorded subdivision plats, (ii) all initial contracts for purchase of lots by builders and first occupants, and (iii) all deeds of conveyance, restrictive covenants, and condominium association documents. Said disclosure statements shall contain contaminant data within the groundwater, surface water, and/or soils on the subject property identified within a Phase I & II ESA, Geotechnical Investigation Report, and the Risk Assessment investigating the source, extent, and risk posed by the subject property, in addition to remediation, monitoring, and corrective action measures conducted within the subject property. The disclosure

statement shall read as follows: Elevated levels of TPHs, arsenic, barium, cadmium, chromium, lead, mercury, naphthalene, and unconsolidated apparently inert fill material at various locations on the subject property at depths from three (3) to seven (7) feet Below Ground Surface (“BGS”) as reported within the Phase II Environmental Site Assessment dated April 17, 2006 and Geotechnical Exploration Report dated April 25, 2006, performed by Geo Environmental Resources, INC exist within the soils and uppermost unconfined groundwater aquifer. All potable and non-potable uses of the uppermost unconfined groundwater aquifer with the exception of environmental testing are prohibited on the subject property. In addition, prior to the initiation of future excavation activities on the subject property, the activities shall be coordinated, reviewed, and certified by a Qualified Environmental Professional (“QEP”) per the US Environmental Protection Agency’s approved All Appropriate Inquires Rule and applicable International ASTM standards. For additional information please refer to the Phase I&II ESA and Risk Assessment. The above referenced documentation shall be maintained by the Condominium Association and copies made available to the general public on request.

This disclosure statement shall be approved by the office of the City Attorney and the Department of Public Works prior to final site plan or final subdivision plan approval.

12. a. The owner/applicant agrees to make a cash contribution to the City of Chesapeake for the construction or expansion for the public school facilities, including but not limited to, land acquisition for additional classroom space, in the school planning district in which the subject property is located. The amount of the cash contribution shall be \$3,811.44 per residential dwelling unit shown on the approved final site plan. The cash contribution shall be paid to the City at the time of building permit issuance for each residential structure. The cash contribution shall be deposited into the City of Chesapeake’s School “lock box”, also known as the General Fund Reserve for School Capital Construction Costs, for the affected school district and shall be subject to City Council approval prior to appropriation.
- b. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition,

road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of the voluntary cash contribution shall be \$1,665.00 per residential dwelling unit. The cash contribution shall be in addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution at the time of building permit issuance for each residential structure.

- c. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public libraries, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the operation of public libraries. The amount of voluntary cash contribution shall be \$701.45 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution at the time of building permit issuance for each residential structure.
  - d. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of Chesapeake. The amount of the voluntary cash contribution shall be \$474.77 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution at the time of building permit issuance for each residential structure.
13. The owner/applicant agrees to provide additional fire fighting measures beyond that required by the Fire Code. These measures include the following:
- a. Additional on-site fire hydrants shall be provided as required by the fire department.
  - b. A monitored fire alarm system shall be provided by the owner/applicant, and maintained by the Homeowners Association, for all occupied structures.

- c. A sprinkler system for the purpose of fire suppression shall be installed for all occupied structures.
14. The applicant/owner agrees that: No more than fifteen percent (15%) of the residential units may be rented at any one time. Biannually, the condominium association will submit to the Zoning Administrator a survey of the occupancy of each unit to verify that the maximum tenant occupancy is 15%. The applicant/owner agrees to include this language in the condominium Declaration and by-laws.
15. The owner/applicant agrees that it shall construct right-of-way improvements on Falcon Avenue between point "A" and point "B" as generally shown on Rezoning Exhibit "B" dated April 20, 2007 to include pavement widening and ditch relocation. Such improvements shall be in accordance with a Public Works approved plan and shall be completed as determined by the Director of Public Works before issuance of any Certificate of Occupancy.
16. The owner/applicant agrees that if presented with a written request from the owner of tax parcel 1590000000480, that it shall provide additional fill material and/or regrade such property to provide positive drainage as determined by the Director of Public Works or designee. Such improvements shall be in accordance with a Public Works approved plan and initialed by the property owner prior to commencement of work and shall be completed as determined by the Director of Public Works or designee before any Certificate of Occupancy is issued for the property subject to this rezoning.

City Clerk Moore presented the item and identified the following speakers in support of Public Hearing Item A:

James R. Bradford, 325 Volvo Parkway, representing Hassell & Folkes, P.C.

Bob Horton, 1072 Laskin Road, suite 101E., Virginia Beach, representing Titon Development, Inc.

Debbie Rountree, 1203 Chesapeake Avenue, representing self.

Gerald Johnson, 1016 Redstart Avenue, representing South Norfolk Civic League.

Nelson Adcock, 2712 Southern Boulevard, #101, Virginia Beach, representing GER Engineering.

Chris Allen, 1735 Chesapeake Drive, representing self.

Timothy Jenkins, 1212 Ohio Street, representing self.

John Hitch, 6104 Eastwood Terrace, Norfolk, representing self, did not wish to speak when called to the podium.

There was extensive discussion between Council Members, Planning Director Nielson and Mr. Bradford concerning drainage, site plan approval, ingress/egress, level of service, road widening and improvements, impact on adjacent neighborhoods, the enforcement of proposed proffers and the positive impacts on the South Norfolk area.

Council Member Ward, on a motion seconded by Council Member Collins, moved to approve R(C)-05-29 with revised proffers as presented.

There was no additional discussion.

On the motion to approve R(C)-05-29 with revised proffers as presented, voting yes: Council Members Collins, Hayes, Parker, Ward, and Willis.

Voting no: Council Members Adams, de Triquet, Edge, and Krasnoff.

**#07-0-073 AN ORDINANCE AMENDING THE CHESAPEAKE ZONING ORDINANCE TO PROVIDE FOR THE REZONING OF AN 11-ACRE PARCEL, LOCATED AT THE TERMINUS OF FALCON AVENUE IN THE SOUTH NORFOLK BOROUGH, FROM M-1 LIGHT INDUSTRIAL DISTRICT (10.5 ACRES) AND R-8S SINGLE-FAMILY RESIDENTIAL DISTRICT (0.5 ACRES) TO R-MF-1 MULTIFAMILY RESIDENTIAL DISTRICT. (R-(C)-05-29)**

**B. R(C)-07-02 PROJECT: Alta Great Bridge APPLICANT: WP East Acquisitions, LLC AGENCY: Kaufman & Canoles, PC PROPOSAL: A conditional zoning reclassification of 12.32 acres from O&I Office and Institutional District to RMF-1, Multi-family Residential District. PROPOSED COMP LAND USE & DENSITY: Low density multi-family with density not exceeding 16 units per acre EXISTING COMP LAND USE & DENSITY: Office LOCATION: 129-153 Great Bridge Boulevard TAX MAP SECTION/PARCEL: 048000000770 BOROUGH: Washington (Continued from the April 17, 2007 City Council meeting)**

The Planning Commission recommends approval with the following proffers:

1. The applicant and/or owner agrees to construct and maintain 20% of the residential dwelling units ("Affordable Housing Units") on the subject property as affordable housing in accordance with the following:
  - a. Affordable Housing Units shall be leased only to residents with an income at or below 50% of the City of Chesapeake area median income ("Qualifying Households"). For the purposes of this proffer, "area median income" shall be determined on an annual basis by the United States Department of Housing and Urban Development and adjusted for household size.
  - b. Affordable Housing Units shall be leased for a monthly fee not higher than 35% of the Qualifying Household's monthly gross income.

- d. The Affordable Housing Units shall only be occupied by households that qualify under the guidelines referenced in subparagraph a.
  - e. The Affordable Housing Units shall be available for Qualifying Households for a period of 15 years.
  - f. The applicant/owner shall annually prepare and file with the City's Office of Housing compliance reports to ensure that the Affordable Housing Units are occupied by Qualifying Households. In the event the Qualifying Household's income increases by more than 140% of the limits described in paragraph a., the unit will be designated a market rate unit upon lease expiration and the next available similar unit will be leased to a Qualifying Household. Termination and conversion events shall be reported in the annual compliance reports.
2. The applicant agrees that as to the subject property, the building design will be designed to promote and complement the overall draft design guidelines of the Great Bridge Battlefield Plan District dated October 9, 2006. The quality of development, the building design and the site plan shall be no less than the applicant's previous "Alta Bay" community located within the Washington Borough of the City of Chesapeake, Virginia. The exterior design shall be similar to the attached elevations A and B both being labeled "Alta Bay Apartments" dated August 2002, as determined by the Planning Director or designee. The exterior design shall generally include a colonial and nautical theme and may include such features as false dormers, a cupola, a combination of brick and cementitious board (e.g. "Hardiplank") siding, or a roof pitch that compliments the roof pitch of the visitor's center building for the Great Bridge Battlefield & Waterways History Foundation. Amenities will include a clubhouse with a business center, an exercise facility, and a swimming pool, all being substantially completed before the issuance of a certificate of occupancy for the building containing the 192<sup>nd</sup> residential dwelling unit.
3. The applicant agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public schools, including but not limited to, land acquisition for the expansion of public school facilities and construction of new schools and additions. The amount of the voluntary cash contribution shall be \$9,909.74 per residential dwelling unit for all residential dwelling units that are not subject to proffer number 1 above. The applicant agrees to make the proffered cash contribution prior to issuance of a building permit for the

residential dwelling units. The applicant acknowledges and agrees that the cash contribution shall be deposited into the City of Chesapeake's "lock box," also known as the General Fund Reserve for School Capital Construction Costs and shall be subject to City Council approval prior to appropriation. In the event the cash proffer is not expended for land acquisition or classroom expansion within time constraints imposed by state law, the applicant agrees that the cash proffer may be used for capital improvement projects for major repair, maintenance and renovation of public schools in the same school planning area as the rezoned property.

4. The applicant agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition, road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of the voluntary cash contribution shall be \$1,912.00 per residential dwelling unit for all residential dwelling units that are not subject to proffer number 1 above. The cash contribution shall be in addition to any required or voluntary road improvements otherwise set forth herein. The applicant agrees to make the proffered cash contribution prior to issuance of a building permit for the residential dwelling units.
5. The applicant agrees to make a cash contribution to the City of Chesapeake for capital improvements to public libraries, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the operation of public libraries. The amount of the voluntary cash contribution shall be \$701.45 per residential dwelling unit for all residential dwelling units that are not subject to proffer number 1 above. The applicant agrees to make the proffered cash contribution prior to issuance of a building permit for the residential dwelling units.
6. The applicant agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of

Chesapeake. The amount of the voluntary cash contribution shall be \$474.77 per residential dwelling unit for all residential dwelling units that are not subject to proffer number 1 above. The applicant agrees to make the proffered cash contribution prior to issuance of a building permit for the residential dwelling units.

7. The applicant agrees to design and construct a public sidewalk generally along the subject property's boundary with Great Bridge Boulevard. The sidewalk will be designed and constructed in accordance with the requirements and specifications of the City of Chesapeake Public Facilities Manual and will be so constructed before the issuance of a certificate of occupancy for the 192<sup>nd</sup> residential dwelling unit.
8. The maximum number of residential dwelling units on the subject property shall be 192.
9.
  - a. The applicant and/or owner shall grant a permanent easement to the City of Chesapeake of approximately 0.5 acres located in the approximately triangular-shaped area that begins at the extreme northwest corner of the subject property beginning at the point where the right-of-way of Route 168 intersects with its off-ramp to Great Bridge Boulevard. The easement shall be for the sole and exclusive use and benefit of the Great Bridge Battlefield and Waterways History Foundation to provide and maintain a special feature to highlight the gateway into the Great Bridge Battlefield Plan District.
  - b. The permanent easement provided for in paragraph 9a. above shall be granted to the City before the issuance of a certificate of occupancy for the building containing the 192<sup>nd</sup> residential dwelling unit.
10. The applicant/owner acknowledges that its project is located in proximity to the Great Bridge Battlefield site and to enhance the historic and cultural experience of the residents occupying the residential dwellings units on the subject property, as well as the general public, the applicant/owner agrees to make a cash contribution to the Great Bridge Battlefield and Waterways History Foundation in the amount of One Hundred Fifty Thousand Dollars (\$150,000). The cash contribution shall be made prior to the issuance of a building permit for the residential dwelling units.

Note: The Cash Proffers being made with this application are on a per-unit basis. The amounts tabulated above are based on a total 192 units, less 20%, or 39 units, which are for occupancy by individuals and families whose incomes do not exceed fifty percent (50%) of the area median income as set forth in Proffer #1, or 153 units.

City Clerk Moore presented the item identified and stated there were five speakers in support of Public Hearing Item B.

Vice Mayor Parker, on a motion seconded by Council Member Collins, moved to approve R(C)-07-02 with proffers as presented.

Council Member Willis thanked the developers for listening to the citizens and staff. She felt this was a great project; however, she expressed concerns about the level of service for schools.

Council Member Adams asked to hear from the speakers.

City Clerk Moore identified the following speakers in support of Public Hearing Item B:

E. Andrew Keeney, 150 West Main Street, Suite 2100, Norfolk, representing Kaufman and Canoles.

Adam M. Golden, 16 Consultant Place, Suite 102, Durham, North Carolina, representing Wood Partners, LLC.

Pete Burkheimer, Jr., 3351 Stoneshore Road, Virginia Beach, representing Engineering Services, Inc.

Ray Smith, 1001 Morehead Square Drive, Charlotte, North Carolina, representing Wood Partners, LLC.

Ron Jackson, 1468 S. Military Highway, representing Chesapeake Redevelopment and Housing Authority.

Council Members Adams, Hayes, and Ward offered comments supporting the project and about the affordable housing units that were being offered by the applicant. Council Member Adams requested staff to provide the number of affordable housing units that had been offered throughout the City during the past year, including those outside of the Chesapeake Redevelopment and Housing Authority.

Council Member Hayes applauded the efforts for workforce housing and the affordability of these apartments being offered by the applicant for the next 25 years.

There was no additional discussion.

On the motion to approve R(C)-07-02 with proffers as presented, voting yes: Council Members Adams, Collins, Hayes, Parker, and Ward.

Voting no: Council Members de Triquet, Edge, Krasnoff, and Willis.

**#07-O-074 AN ORDINANCE AMENDING THE CHESAPEAKE ZONING ORDINANCE TO PROVIDE FOR THE REZONING OF 12.32 ACRES, LOCATED AT 1219-153 GREAT BRIDGE BOULEVARD IN THE WASHINGTON BOROUGH, FROM O & I OFFICE AND INSTITUTIONAL DISTRICT TO RMF-1, MULTI-FAMILY RESIDENTIAL DISTRICT (R-(C)-07-02)**

**C. R(C)-07-07 PROJECT: Shirley Estates** APPLICANT: Daniel and Shirley Hall AGENCY: Site Improvement Associates, Inc. PROPOSAL: A conditional zoning reclassification of 3.75 acres from A-1 Agricultural District to R-40 single family district and R-15s single family district. PROPOSED LAND USE & DENSITY: Suburban Single-family with 1 unit per acre to something less than 4 units per acre. EXISTING COMP LAND USE & DENSITY: Rural with one unit per 3 or more acres. LOCATION: The property is located 2300<sup>±</sup> feet from the southwest intersection of Forest Road and Hillwell Road. TAX MAP SECTION/PARCEL: 0730000001160 BOROUGH: Pleasant Grove

The Planning Commission recommends denial.

City Clerk Moore presented the item and identified the following speakers in support of Public Hearing Item C:

Daniel Hall, 433 Forest Road, representing self.

Sam Baraki, 800 Juniper Crescent, representing Shirley Estates.

Robert MacDonald, 620 Cedar Road, representing Shirley Estates.

Clyde Kennedy, 424 Forest Road, representing self.

Jesse Lockhart, 408 Forest Road, representing self.

City Clerk Moore identified the following speakers in opposition to Public Hearing Item C:

Mary Basnight, 448 Forest Road, representing self.

Fred Bumann, 453 Forest Road, representing self.

Emitt Fuller, 432 Forest Road, representing self.

Barry Basnight, 448 Forest Road, representing self.

Greg Steele, 417 Forest Road, representing self.

Terry Bond, 541 Forest Road, representing self.

Patrice Dykes, 428 Forest Road, representing self.

Ty Melowicz, 385 Forest Road, representing self.

Merrill Van Ostrand, 449 Forest Road, representing self.

Travis Dykes, 428 Forest Road, representing self.

Tonia Rogers, 393 Forest Road, representing self.

Eleanor Roberts, 560 Forest Road, representing self.

There was discussion between Council Members and Assistant Director of Public Utilities, William J. Meyer, concerning the current pumping station capacity and possible upgrades to the system. Mr. Meyer stated that the pumping station was properly sized and was up to City code; however, the Utility Review Board could grant exceptions.

Council Member Collins and Planning Director Nielson discussed the Comprehensive Plan and level of service requirements related to this project. Mr. Nielson stated that the project met the level of service.

Council Member Collins, on a motion seconded by Council Member Hayes, moved to approve R(C)-07-07 with the following proffers:

1. Lots 6, 7, 9 & 10 as shown on the attached rezoning exhibit will not apply for building permits prior to September 1, 2007.
2. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public schools, including but not limited to, land acquisition for the expansion of public school facilities and construction of new schools and additions. The amount of the voluntary cash contribution shall be \$14,229.37 per residential lot. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for all residential lots. The applicant/owner acknowledges and agrees that the cash contribution may be deposited into the City of Chesapeake's "lock box," also known as the General Fund Reserve for School Capital Construction Costs and shall be subject to City Council approval prior to appropriation. In the event the cash proffer is not expended for land acquisition or classroom expansion within time constraints imposed by state law, the applicant/owner agrees that the cash proffer may be used for capital improvement projects for major repair, maintenance and renovation of public schools in the same school planning area as the rezoned property.
3. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition, road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of the voluntary cash contribution shall be \$3,179.00 per residential lot. The cash contribution shall be in the addition to any required or voluntary road improvements. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for all residential lots.
4. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public libraries, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and

acquisition of capital assets necessary to the operation of public libraries. The amount of the voluntary cash contribution shall be \$949.00 per residential dwelling unit. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for all residential dwelling units.

5. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of Chesapeake. The amount of the voluntary cash contribution shall be \$462.00 per residential dwelling unit or residential lot, whichever is greater. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for all residential dwelling units.
6. No more than five (5) lots shall be created within the proposed rezoned area.
7. The applicant/owner agrees to pay \$4,300.00 toward connection fees for every lot served by water & sewer along the proposed extension of the water & sewer mains along Forest Rd. (total of 10 lots affected) to serve the subject property. The said fee to be paid at time of utility activation to the owner of each lot affected. This proffer is valid for a period of six months after the water main & sewer main are accepted & activated by the Department of Public Utilities.
8. The applicant/owner agrees to restrict the home on the proposed development to a minimum of 2500 SF for single story house & 2800 SF of a 2 story house.
9. The applicant/owner agrees to restrict home construction within the proposed development to crawl spaces foundation, and the construction of the houses shall be predominately brick as determined by the Planning Director or Designee.
10. Applicant/owner agrees to limit access from all lots in the development including those already approved for construction in the R-15s zoning district to Daniel Court.

Council Member Collins stated this type of in-fill development was encouraged by the Comprehensive Plan. Council Member Collins questioned City Engineer Eric Martin about road width and future plans for Forest Road. Mr. Martin responded that the City requires new roads to be constructed 30 feet in width and

wherever possible that existing roads be repaired or improved to 24 feet in width. He stated that Forest Road could be widened as the utilities were installed and fire hydrants could be installed.

Mr. Collins asked Assistant Utilities Director Meyer back to the podium for questions. He asked Mr. Meyer asked the distance to the nearest fire hydrant. Bill Meyer noted that the present fire hydrant was approximately 800 feet away from Forest Road.

On the motion to approve R(C)-07-07 with proffers as presented, voting yes: Council Members Collins, de Triquet, Edge, Hayes, and Parker.

Voting no: Council Members Adams, Krasnoff, Ward and Willis.

**#07-O-075 AN ORDINANCE REZONING 3.75 ACRES, LOCATED 2300 +/- FEET FROM THE SOUTHWEST INTERSECTION OF FOREST ROAD AND HILLWELL ROAD IN THE PLEASANT GOVE BOROUGH, FROM A-1 AGRICULTURAL DISTRICT TO R-40 SINGLE FAMILY DISTRICT AND R-15s SINGLE-FAMILY DISTRICT (R(C)-07-07).**

Council Members recessed at 8:55 p.m. and reconvened at 9:07 p.m.

**D. #07-R-035 CP-07-02 RESOLUTION AMENDING THE 2026 COMPREHENSIVE PLAN, INCLUDING POLICIES, APPENDICES AND LAND USE MAP, TO ADD CITY-WIDE DESIGN GUIDELINES APPLICABLE TO MIXED-USE, INFILL AND GATEWAY DEVELOPMENTS AND APPLICABLE ALSO THROUGHOUT THE RURAL OVERLAY DISTRICT.**

The Planning Commission recommends approval.

City Clerk Moore presented the item and stated there was one speaker in support of Public Hearing Item D.

Council Member de Triquet, on a motion seconded by Council Member Ward, moved to approve CP-07-02 as presented.

There was no discussion.

On the motion to approve CP-07-02 as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None

**E. #07-O-076 ST.C-07-02 PROJECT: Old Bells Mill Road Street Closure APPLICANT: City of Chesapeake PROPOSAL: A request to close the 30,731 square foot portion of Old Bells Mill Road at its western terminus. LOCATION: Western terminus of the Old Bells Mill Road TAX MAP SECTION/PARCEL: 046000000213, 046000000222 BOROUGH: Deep Creek**

The Planning Commission recommends approval with the following stipulations:

1. The City reserves and establishes public access and utility easements across the entire vacated right-of-way. These easements shall be depicted on all site plans and subdivision plats that incorporate the vacated right of way.
2. The street closure shall not become effective until such time as a deed is executed by the City conveying its interest in the vacated right of way to the adjacent property owner. The City Manager or designee shall have authority to execute the deed."

City Clerk Moore presented the item and stated there were no speakers at that time.

Council Member Adams, on a motion seconded by Council Member Hayes moved to approve ST.C-07-02 with stipulations as presented.

There was no discussion.

On the motion to approve ST.C-07-02 with stipulations as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None

**F. #07-O-077 TA-Z-07-06 AN ORDINANCE AMENDING APPENDIX "A" OF THE CHESAPEAKE CITY CODE, ENTITLED "ZONING", SECTIONS 7-601.C.31, 8-601.C.24 AND 9-501.C.19 TO MODIFY THE CONDITIONAL USE PERMIT REQUIREMENTS FOR EATING OR DRINKING PLACES ADJACENT TO PROPERTY ZONED OR USED FOR RESIDENTIAL PURPOSES, CHURCHES AND PUBLIC AND PRIVATE SCHOOLS.** (Continued from the May 1, 2007 Special City Council Meeting)

The Planning Commission recommends approval of the version dated March 21, 2007.

City Clerk Moore presented the item and identified the following speakers:

Linda Zang, 817 Botetourt Court, representing Na-Na Sushi, spoke in support of Public Hearing Item F.

Gerald Johnson, 1016 Redstart Avenue, representing South Norfolk Civic League, spoke in opposition to Public Hearing Item F.

Council Member Krasnoff reviewed the ordinance and the proposed changes.

Council Member Krasnoff, on a motion seconded by Vice Mayor Parker, moved approval of the Ordinance, version dated March 21, 2007.

There was extensive discussion between Council Members, City Attorney Hallman and Planning Director Nielson concerning the proposed changes.

Council Member Willis, on a motion seconded by Council Member Ward, moved to amend the original motion for approval of the version dated March 21, 2007 by adding the following amendments, and as an emergency Ordinance:

- **Changing 100 feet to 200 feet in sections 7-601.C.31(a), 8-601.C.24(a), and 9-501.C.19(a)**
- **Changing 1:00 a.m. to 12:00 midnight in sections 7-601.C.31(a), 8-601.C.24(a), and 9-501.C.19(a).**

Council Member Krasnoff expressed concern that the changes would adversely affect a small business owner. He then withdrew his original motion with concurrence of Vice Mayor Parker, the second to the main motion.

Council Member Collins inquired how distances would be measured when determining the distance between an establishment and an adjacent neighborhood. City Attorney Hallman responded to the inquiry.

Mr. Johnson was called back to the podium for additional comments concerning the original ordinance.

On the motion to approve TA-Z-07-06, version dated March 21, 2007, with the amended language, and as an emergency action, voting yes: Council Members Adams, Collins, Krasnoff, Parker, Ward, and Willis.

Voting no: Council Members de Triquet, Edge and Hayes.

#### **CITIZENS COMMENTS ON REGULAR AGENDA ITEMS**

City Clerk Moore identified the following speaker:

Melvin Wiggins, 1219 Woods Way, representing self and City Employees, spoke in opposition to Old and New Business Item A.

#### **REGULAR AGENDA**

##### **City Manager's Item**

- (1) **#07-O-077A** A. REQUEST TO DE-APPROPRIATE \$1,562,126 OF GENERAL FUND TELECOMMUNICATIONS REVENUES FOR FY 2006-07 – BUDGET DEPARTMENT

Acting City Manager Odell presented the item.

Vice Mayor Parker, on a motion seconded by Council Member Ward, moved for approval of the de-appropriation and as an emergency action.

Council Member Hayes requested Budget Director Meyer to provide a list of unfunded state and federal mandates and revenue reductions that have been implemented over the past several years.

There was no additional discussion.

On the motion to approve the de-appropriation and as an emergency action, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None

- B. **#07-O-077B** REQUEST FOR TRANSFER OF \$1,300,000 FROM THE FY 2006-07 GENERAL FUND TO THE FY 06-07 E-911 OPERATIONS FUND – BUDGET DEPARTMENT

Acting City Manager Odell presented the item.

Vice Mayor Parker, on a motion seconded by Council Member Ward, moved to approve the transfer as presented.

There was no discussion.

On the motion to approve the transfer of \$1,300,000 from the FY 2006-07 General Fund to the FY 2006-07 E-911 Operation Fund, as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None

(2) REQUEST FOR CITY COUNCIL CONTINGENCY FUND TRANSFER OF \$5,200 TO PURCHASE CIVIL WAR TRAIL MARKERS - PLANNING DEPARTMENT

Acting City Manager Odell presented the item.

Council Member Ward, on a motion seconded by Council Member Adams, moved to approve the transfer of \$5,200 from the City Council Contingency Fund to purchase Civil War Trail Markers, as presented.

Council Member de Triquet suggested that these markers be funded from the Office of Tourism.

Council Member Adams stated that she preferred the markers be funded from the Council Contingency Fund in the current year's budget.

On the motion to approve the transfer of \$5,200 from the City Council Contingency Fund to purchase Civil War Trail Markers, as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Parker, Ward, and Willis.

Voting no: Council Members de Triquet and Krasnoff.

**COMMITTEE REPORTS/OLD AND NEW BUSINESS**

A) REQUEST TO RECONSIDER THE ACTION TO REMOVE AND RESERVE \$1.2 MILLION FOR THE VRS MULTIPLIER FROM THE FY 07-08 OPERATING BUDGET AND CONSIDER IT AS PART OF THE EMPLOYEE PAY PLAN STUDY, ADOPTED AS PART OF CITY MANAGER ITEM 1(M) (AN ORDINANCE MAKING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, AND ENDING JUNE 30, 2008, TO PRESCRIBE THE TERMS AND PAYMENT AND TO REPEAL ALL ORDINANCES WHOLLY IN CONFLICT WITH THIS ORDINANCE) ADOPTED BY CITY COUNCIL DURING THE MAY 8, 2007 COUNCIL MEETING - COUNCIL MEMBERS BRYAN L. COLLINS, ELLA P. WARD, AND PATRICIA PRITCHARD WILLIS

Acting City Manager Odell presented the item.

Council Member Willis, on a motion seconded by Council Member Collins, moved to approve reconsideration of the action taken May 8, 2007 to remove and reserve \$1.2 million from the FY 07-08 Operating Budget appropriation for the Virginia Retirement System (VRS) Multiplier for Public Safety sworn employees.

Council Member Hayes asked City Attorney Hallman if this would be a conflict of interest for him since he was an employee in the Sheriff's Department. City Attorney Hallman stated that it would not be a conflict of interest for Council Member Hayes to participate on this item as he was not a sworn officer in the Sheriff's Department.

Council Member Krasnoff offered several comments concerning the proposed request, noting that he could not support the reconsideration motion because he felt it important to be consistent in his actions as he had supported making the VRS multiplier a part of the pay plan review for the Fall.

On the motion to approve reconsideration of the action taken May 8, 2007 to remove and reserve \$1.2 million from the FY 07-08 Operating Budget appropriation for the VRS Multiplier for Public Safety sworn employees, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Parker, Ward and Willis.

Voting no: Council Member Krasnoff

Council Member Willis, on a motion seconded by Council Member Ward, moved to approve returning \$1.2 million to the FY 07/08 Operating Budget appropriation to implement the VRS Multiplier for Public Safety sworn employees.

There were comments by Council Members Willis and Ward for support of the motion.

Vice Mayor Parker asked Human Resources Director Mary Bullock if the VRS multiplier was a retirement benefit. She stated that it was.

There was no further discussion.

On the motion to approve returning \$1.2 million to the FY 07/08 Operating Budget appropriation to implement the VRS Multiplier for Public Safety sworn employees, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

City Attorney Hallman advised Council of the need to approve a resolution of adoption to send to VRS.

Council Member de Triquet, on a motion seconded by Council Member Collins, moved to suspend City Council's Rules of Order and Procedure to consider a resolution not on the printed agenda.

There was no discussion.

On the motion to suspend City Council's Rules of Order and Procedure to consider a resolution not on the printed agenda, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

Council Member de Triquet, on a motion seconded by Vice Mayor Parker, moved to approve a Resolution to the Virginia Retirement System stating the City's decision to implement the retirement multiplier for Public Safety sworn employees effective July 1, 2007.

There was no discussion.

On the motion to approve a Resolution to the Virginia Retirement System stating the City's decision to implement the retirement multiplier for Public Safety sworn employees effective July 1, 2007, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

**#07-R-036** RESOLUTION ELECTING TO ESTABLISH THE 1.85 RETIREMENT ALLOWANCE MULTIPLIER FOR SWORN POLICE, FIRE AND SHERIFF'S PERSONNEL AS PROVIDED IN CODE OF VIRGINIA ~ 51.1-138, AS AMENDED, EFFECTIVE JULY 1, 2007 OR AS SOON THEREAFTER AS APPROVED BY THE VIRGINIA RETIREMENT SYSTEM.

Mayor Edge combined Old and New Business with Committee Reports calling on Council Members for both.

Council Member Ward commended Council Member Hayes, Chesapeake Youth Committee Chairman David Hackworth, and Youth Services Coordinator Kecia Brothers, on the Mayor's the T-Ball Classic event held Saturday, May 12, 2007. She attended the Tidewater Seniors in Action event at the Central Library honoring Dr. Willa Bazemore. Dr. Ward welcomed American Idol Contestant and Chesapeake Native Chris Richardson back home after his successful time on the show. She spoke of her attendance at the 2007 Tidewater Builder's Association Charity House event, the Shining Star Awards Luncheon and reminded all of the upcoming Chesapeake Jubilee.

Council Member Hayes requested that Acting City Manager Odell have Staff provide assistance to the Sheriff's Training Academy to get the grass cut at the facility. He asked that Neighborhood Services assist Great Bridge Freewill Evangelic Church with the issue of the placement of a cross in front of the Church.

Council Member Collins requested Acting City Manager to: 1) Review the methodology used in the multiplier to determine the number of for children per housing type for school level of service figures; 2) Poll other cities in the area to see how the methodology used to determine the number of children per housing type; 3) Make sure that the latest data available from schools is used for the calculations; and 4) provide a five year projection of students for elementary, middle and high school. He thanked Acting City Manager Anne Odell for her work as Acting City Manager over the past year and as the Southeastern Public Service Authority representative for the City.

Council Member Adams reviewed the activities she had attended including the Friends of the Arts reception, Todi Music Fest, and the Jamestown 400<sup>th</sup> Celebration. She noted the number of calls she had received from citizens about increasing the income and net worth limits for the elderly tax relive and expressed the need for Council to look at that further in the near future. Dr. Adams requested a listing of the affordable/workforce housing stock in the City.

Vice Mayor Parker reminded Council Members of the Boards and Commissions appointments at the next meeting, and asked that they contact citizens before nominating them to a Board or Commission. He advised that he and Council Member Adams had met with March Cromuel of the NAACP to discuss additional cameras being placed in police cars.

Council Member Ward asked City Attorney Hallman to prepare a letter to the General Assembly to look at increasing income and net worth limits for seniors tax relief.

Mayor Edge requested Acting City Manager Odell to provide a report on the status of the land swap for the Tidewater Community College expansion.

**REQUEST FOR CLOSED SESSION**

City Attorney Hallman provided the following language for consideration of the closed session topic: "to consult with legal counsel pertaining to actual and probable litigation, where discussion in open session would adversely affect the litigating posture of the City, and to consult with legal counsel concerning specific legal matters requiring the provision of legal advice, pursuant to Virginia Code, Section 2.2-3711A.7."

Vice Mayor Parker, on a motion seconded by Council Member Ward, moved approval of the request to hold the closed session.

There was no discussion.

On the motion for approval of the request to hold the closed session, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

**CLOSED SESSION**

City Council went into Closed Session at 10:26 p.m. They reconvened at 11:10 p.m.

**CERTIFICATION OF CLOSED SESSION**

City Attorney Hallman read the following: "The Chesapeake City Council hereby certifies that to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements were discussed and only such public business matters as were identified in the motion convening the meeting were heard, discussed or considered by the City Council."

Vice Mayor Parker, on a motion seconded by Council Member Ward, moved approval of the certification of the Closed Session discussion.

There was no discussion.

On the motion for approval of the certification of the Closed Session, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

**ADJOURNMENT**

There being no further business for consideration, the meeting was adjourned at 11:11 p.m.

/dah