

Director of Media and Community
Relations

SUFFOLK CITY COUNCIL
MEETING OF APRIL 2, 2014



WORK SESSION

Begins at 5:00 p.m.

REGULAR SESSION

Begins at 7:00 p.m.

**SUFFOLK CITY COUNCIL
WORK SESSION**

April 2, 2014

5:00 p.m.

City Council Chamber

1. Fiscal Year 2014 - 2015 Operating and Capital Budget
- 2.* Appointments
- 3.* General Report for City Council

* Proposed Items for Closed Session

AGENDA: April 2, 2014, Work Session

ITEM: Fiscal Year 2014-2015 Operating and Capital Budget

The Finance Director will present the City Manager's proposed Fiscal Year 2014-2015 Operating and Capital Budget to City Council. The proposed FY 2014-2015 Operating and Capital Budget will be provided under a separate cover.

It is recommended that City Council schedule a public hearing for its April 16, 2014 City Council meeting to receive public comment on the proposed FY2014-2015 Operating & Capital Budget.

A motion to do so has been placed on the agenda under the section entitled "motions" for action by City Council.

SUFFOLK CITY COUNCIL AGENDA
April 2, 2014
7:00 p.m.
City Council Chamber

1. **Call to Order**
2. **Nonsectarian Invocation**
3. **Approval of the Minutes**
4. **Special Presentations**
 - A. **Week of the Young Child Proclamation**
 - B. **Suffolk Crime Victims' Rights Week Proclamation**
5. **Removal of Items from the Consent Agenda and Adoption of the Agenda**
6. **Agenda Speakers**
7. **Consent Agenda**
8. **Public Hearings**
9. **Ordinance** – A ordinance to accept a Deed Open Space Easement over the common passive open space within Phase 2A of the Graystone Reserves Cluster Subdivision, Tax Map Number 26L, Parcels OS*A through F, Nansemond Voting Borough
10. **Resolutions**
11. **Staff Report** – Proposed FY 2014-2015 Annual Action Plan for the City of Suffolk Community Development Block Grant Program and the Western Tidewater Home Consortium Home Investment Partnership Grant Program
12. **Motion** – A motion to schedule a public hearing to be held on April 16, 2014, to receive public comment on the proposed FY 2014-2015 Operating & Capital Budget
13. **Motion** – A motion to schedule a public hearing to be held on April 16, 2014, to receive public comment on the proposed FY 2014-2015 Annual Action Plan for the City of Suffolk Community Development Block Grant Program and the Western Tidewater Home Consortium Home Investment Partnership Grant Program
14. **Motion** – A motion to schedule a Work Session for April 16, 2014, at 4:00 p.m., unless cancelled

- 15. Non-Agenda Speakers**
- 16. New Business**
- 17. Announcements and Comments**
- 18. Adjournment**

Work Session of the Suffolk City Council was held in the City Council Chamber on Wednesday, March 5, 2014, at 5:00 p.m.

PRESENT

Council Members -

Linda T. Johnson, Mayor, presiding

Charles F. Brown, Vice Mayor

Michael D. Duman

Roger W. Fawcett

Jeffrey L. Gardy

Curtis R. Milteer, Sr.

Charles D. Parr, Sr.

Lue Ward, Jr.

Selena Cuffee-Glenn, City Manager

Helivi L. Holland, City Attorney

Erika S. Dawley, City Clerk

ABSENT

None

SUFFOLK RESTAURANT WEEK

Utilizing a PowerPoint presentation, Economic Development Director Kevin Hughes gave a report on the above referenced item.

CLOSED MEETING

Council Member Milteer, on a motion seconded by Council Member Duman, moved that City Council convene in a closed meeting for the following purposes, by the following roll call vote:

1. Pursuant to Virginia Code Section 2.2-3711(A)(1), the discussion, consideration, or interviews of prospective candidates for appointment; and the assignment, appointment, and performance of specific appointees of the City, specifically the appointments shown on the attached list.
2. Pursuant to Virginia Code Section 2.2-3711(A)(7), consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel specifically the discussion of Boards, Commissions, Authorities and Committees.
3. Pursuant to Virginia Code Section 2.2-3711(A)(7), consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel specifically the discussion of the legal services provided by the City Attorney's Office from February 5, 2014 through February 24, 2014 as reflected in the General Report.

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:		0

City Council convened in Closed Meeting at 5:05 p.m. The Closed Meeting concluded at 5:50 p.m.

Teste: _____
Erika S. Dawley, City Clerk

Approved: _____
Linda T. Johnson, Mayor

Regular Meeting of the Suffolk City Council was held in the City Council Chamber on Wednesday, March 5, 2014, at 7:00 p.m.

PRESENT

- Council Members -
- Linda T. Johnson, Mayor, presiding
- Charles F. Brown, Vice Mayor
- Michael D. Duman
- Roger W. Fawcett
- Jeffrey L. Gardy
- Curtis R. Milteer, Sr.
- Charles D. Parr, Sr.
- Lue R. Ward, Jr.

- Selena Cuffee-Glenn, City Manager
- Helivi L. Holland, City Attorney
- Erika S. Dawley, City Clerk

ABSENT

None

CALL TO ORDER/INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Johnson called the meeting to order. Vice Mayor Brown offered the Invocation, and Girl Scout Troop 5450 led the Pledge of Allegiance to the Flag.

FREEDOM OF INFORMATION ACT CERTIFICATION

City Clerk Dawley presented a resolution certifying the Closed Meeting of March 5, 2014, pursuant to Section 2.2-3712 of the Code of Virginia (1950), as amended.

Council Member Milteer, on a motion seconded by Council Member Gardy, moved that the resolution be approved, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

A RESOLUTION OF CERTIFICATION OF THE CLOSED MEETING OF MARCH 5, 2014, PURSUANT TO SECTION 2.2-3712 OF THE CODE OF VIRGINIA (1950), AS AMENDED

APPROVAL OF THE MINUTES

Council Member Gardy, on a motion seconded by Council Member Duman, moved to approve the minutes from the February 5, 2014, Work Session and Regular Meeting, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

SPECIAL PRESENTATIONS

Special Presentation – Presentation of a proclamation to the Girl Scouts Council of Colonial Coast in recognition of “Girl Scout Week”

Mayor Johnson presented the above referenced item to the members of Girl Scout Troop 5450.

REMOVAL OF ITEMS FROM THE CONSENT AGENDA AND ADOPTION OF THE AGENDA

Mayor Johnson asked if any members of City Council wished to remove any of the Consent Agenda items for separate action. She also advised that there was an item that needed to be added to the Resolution section of tonight’s agenda – a resolution declaring and rescinding a local emergency.

Hearing no requests for removal of any items, Mayor Johnson advised that a motion was in order at this time to amend the agenda as outlined and adopt the remainder of the agenda as presented.

Council Member Parr, on a motion seconded by Council Member Gardy, moved to add the above referenced item to the Resolution section of tonight’s agenda and adopt the remainder of the agenda as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

AGENDA SPEAKERS

There were no speakers under this portion of the agenda.

CONSENT AGENDA

There were no items under this portion of the agenda.

PUBLIC HEARINGS

Public Hearing – An ordinance authorizing the acquisition of real property in fee simple for right of way and temporary and permanent easements, either by agreement or condemnation, for the Main Street Sidewalk Phase 2 Project

Utilizing a PowerPoint presentation, Public Works Director Eric Nielsen offered a report on the background information as printed in the official agenda.

Hearing no speakers, the public hearing was closed.

Council Member Parr, on a motion seconded by Council Member Gardy, moved to approve the ordinance as presented.

Referring to the presentation, Council Member Duman called for clarification of the City’s position as it relates to the installation of sidewalks and right turn lanes. Public Works Director Nielsen explained that the City has agreed to make those improvements.

Referring to the presentation, Council Member Gardy asked whether the property acquisition for the project would be from Barton Ford. Public Works Director Nielsen replied in the affirmative.

Council Member Parr, on a motion seconded by Council Member Gardy, moved to approve the ordinance, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY IN FEE SIMPLE FOR RIGHT OF WAY AND TEMPORARY AND PERMANENT EASEMENTS, EITHER BY AGREEMENT OR CONDEMNATION, FOR THE MAIN STREET SIDEWALK PHASE 2 PROJECT

Public Hearing – An ordinance authorizing the acquisition of real property in fee simple for right of way and temporary and permanent easements, either by agreement or condemnation, for the Bridge Road and Bennett’s Pasture Road Intersection Improvements Project

Utilizing a PowerPoint presentation, Public Works Director Nielsen gave an overview of the background information as printed in the official agenda.

Hearing no speakers, the public hearing was closed.

Council Member Gardy, on a motion seconded by Council Member Fawcett, moved to approve the ordinance, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY IN FEE SIMPLE FOR RIGHT OF WAY AND TEMPORARY AND PERMANENT EASEMENTS, EITHER BY AGREEMENT OR CONDEMNATION, FOR THE BRIDGE ROAD AND BENNETT’S PASTURE ROAD INTERSECTION IMPROVEMENTS PROJECT

Public Hearing – An ordinance authorizing the acquisition of real property in fee simple for right of way and temporary and permanent easements, either by agreement or condemnation, for the Bridge Road and Lee Farm Lane Intersection Improvements Project

Utilizing a PowerPoint presentation, Public Works Director Nielsen provided a review of the background information as printed in the official agenda.

David Harlow, 1656 Willow Wisp Drive, Virginia Beach, Virginia representing self, expressed about concerns about the possible impact of the permanent easement for Dominion Virginia Power on the future development of the property under consideration. He also opined about the four way traffic signal at the intersection.

Hearing no additional speakers, the public hearing was closed.

Council Member Gardy, on a motion seconded by Council Member Parr, moved to approve the ordinance, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY IN FEE SIMPLE FOR RIGHT OF WAY AND TEMPORARY AND PERMANENT EASEMENTS, EITHER BY AGREEMENT OR CONDEMNATION, FOR THE BRIDGE ROAD AND LEE FARM LANE INTERSECTION IMPROVEMENTS PROJECT

Public Hearing - An ordinance authorizing the acquisition of real property in fee simple for right of way and temporary and permanent easements, either by agreement or condemnation, for the Route 337/Nansemond Parkway Widening Phase II Project

Utilizing a PowerPoint presentation, Public Works Director Nielsen summarized a summation of the background information as printed in the official agenda.

Hearing no speakers, the public hearing was closed.

Council Member Gardy, on a motion seconded by Council Member Duman, moved to approve the ordinance, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY IN FEE SIMPLE FOR RIGHT OF WAY AND TEMPORARY AND PERMANENT EASEMENTS, EITHER BY AGREEMENT OR CONDEMNATION, FOR THE ROUTE 337/NANSEMOND PARKWAY WIDENING PHASE II PROJECT

Public Hearing – Consideration of an appeal of the Historic Landmarks Commission’s decision to deny a request for a Certificate of Appropriateness for the after-the-fact replacement of windows and associated trim on a residential structure located at 212 Pearl Street; Zoning Map 34G18, Block A, Parcel 164; HC2013-029

Utilizing a PowerPoint presentation, Planning and Community Development Director Mills offered a report of the background information as printed in the official agenda.

Allyn Brown, 231 Pinner Street, applicant, asked that he be granted a Certificate of Appropriateness for the after-the-fact replacement of windows and associated trim on a residential structure located at 212 Pearl Street.

Hearing no additional speakers, the public hearing was closed.

Referring to the presentation, Council Member Parr called for information from the applicant about the failure to install grids in the replacement windows initially and his willingness to install grids at this time. Mr. Brown said that he would be willing to install the grids. He added that he did not initially install the grids because single-pane windows were previously in place.

Referring to the presentation, Council Member Parr queried about the applicant’s willingness to install grids in the replacement windows. Mr. Brown replied in the affirmative.

Referring to the presentation, Council Member Parr inquired about the siding on the structure. Mr. Brown reported that it is asbestos siding.

Referring to the presentation, Council Member Duman asked if the two \$500.00 fines previously levied on the property were paid by the previous owner. Planning and Community Development Director Mills advised that the fines were paid, but he did not know how the fines were satisfied.

Referring to the presentation, Council Member Duman opined about any liens on the property prior to its sale. City Attorney Holland indicated that she could not address this matter without seeing the documents associated with the property’s sale.

Referring to the presentation, Council Member Duman queried about the applicant’s willingness to install grids in the replacement windows. Mr. Brown replied in the affirmative.

Referring to the presentation, Council Member Duman sought clarification about the course of action should the applicant be unable to get the grids for the windows. Mr. Brown stated that he would make every effort to obtain grids in the correct size.

Council Member Duman, on a motion seconded by Vice Mayor Brown, moved to modify the decision of the Historic Landmarks Commission in denying a request for a Certificate of Appropriateness for the after-the-fact replacement of windows and associated trim on a residential structure located at 212 Pearl Street, to grant a Certificate of Appropriateness to allow the applicant to install vinyl windows for the after-the-fact replacement of 18 windows, provided the windows are configured with a six-over-six grid pattern. The applicant may retrofit the existing replacement windows with commercially available retrofit muntins to achieve this configuration within six months of the date of this action.

Referring to the presentation, Council Member Gardy asked about any timeline for the applicant to make the modification as outlined in the motion. Planning and Community Development Director Mills explained that he applicant would need to make the needed modification in six months.

Referring to the presentation, Council Member Fawcett called for information about which windows were in place when the applicant purchased the property. Mr. Brown reported that all of the front windows and the majority of the side windows were in place when he purchased the property.

Referring to the presentation, Council Member Parr solicited confirmation of the applicant’s understanding of the six month requirement to make the modification. Mr. Brown replied in the affirmative.

Council Member Duman, on a motion seconded by Vice Mayor Brown, moved to modify the decision of the Historic Landmarks Commission in denying a request for a Certificate of Appropriateness for the after-the-fact replacement of windows and associated trim on a residential structure located at 212 Pearl Street, to grant a Certificate of Appropriateness to allow the applicant to install vinyl windows for the after-the-fact replacement of 18 windows, provided the windows are configured with a six-over-six grid pattern. The applicant may retrofit the existing replacement windows with commercially available retrofit muntins to achieve this configuration within six months of the date of this action, as presented by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

ORDINANCES

There were no items under this portion of the agenda.

RESOLUTIONS

Resolution - A resolution declaring and rescinding a local emergency

Council Member Gardy, on a motion seconded by Council Member Parr, moved that the resolution be approved, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

A RESOLUTION DECLARING AND RESCINDING A LOCAL EMERGENCY

STAFF REPORTS

There were no items under this portion of the agenda.

MOTIONS

Motion - A motion to schedule a Work Session for March 19, 2014, at 4:00 p.m., unless cancelled

Council Member Milteer, on motion seconded by Council Member Parr, moved to schedule a Work Session for March 5, 2014, at 4:00 p.m., unless canceled, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

NON-AGENDA SPEAKERS

Arthur Elliott, 809 West Washington Street, was not present when called.

NEW BUSINESS

Vice Mayor Brown, on a motion seconded by Council Member Parr, moved to direct City Manager Cuffee-Glenn to investigate alternative options for cable television services, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

Council Member Duman, on a motion seconded by Council Member Fawcett, moved to direct City Assessor Jean Jackson to add information about a parcel's inclusion in the Historic Overlay District on appropriate property records in the Office of the City Assessor, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

Council Member Parr, on motion seconded by Vice Mayor Brown, moved to direct City Manager Cuffee-Glenn to meet with School Superintendent Deran Whitney to discuss the feasibility of one time funding for bonuses for City and Suffolk Public Schools employees and discuss a joint compensation study, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

ANNOUNCEMENTS AND COMMENTS

Utilizing PowerPoint presentation, Media and Community Relations Manager Timothy Kelley reported on the following items: the 2013 Suffolk Citizen Centric Report; ribbon cutting for Zoyo Neighborhood Yogurt; the recent Third Annual Increase the Peace Fashion Show; the upcoming Suffolk Fire and Rescue Promotional and Awards Ceremony; the upcoming 30th Annual Juried Photography Exhibit; the upcoming Statewide Tornado Drill; the upcoming Great Dismal Swamp Safari at the Great Dismal Swamp National Wildlife Refuge; the upcoming Shamrock Stroll; the upcoming Suffolk Restaurant Week; the upcoming Suffolk Visitor's Center Free Family Movie Night; the relocation of the Municipal Channel on Charter Cable; information on reporting road problems or streetlight outages on the City's webpage; the reopening of eastbound and westbound West Washington Street; the altered refuse and recycling pickup schedule and the start of Daylight Savings Time.

Council Member Ward advised that he attended the following: a meeting of the Burbage Grant Home Owners Association; a community event in Huntersville; the 2026 Comprehensive Plan public open house meeting; and the ribbon cutting for Zoyo Neighborhood Yogurt.

Council Member Ward opined about consideration of alternatives for cable television services.

Council Member Milteer announced he attended the Nansemond-Suffolk Chapter of the NAACP Freedom Fund Celebration.

Council Member Milteer opined about the Affordable Healthcare Act.

Council Member Fawcett reported he attended the following: the American Diabetes Association brunch; the Nansemond-Suffolk Chapter of the NAACP Freedom Fund Celebration; the ribbon cutting for Zoyo Neighborhood Yogurt; and the 2026 Comprehensive Plan public open house meeting

Council Member Fawcett thanked all of the City employees for their efforts during the recent snow storm.

Council Member Fawcett encouraged residents to check their smoke detectors with the start of Daylight Savings Time.

Council Member Parr announced the kickoff of Suffolk Restaurant Week.

Council Member Parr encouraged residents to shop locally.

Council Member Parr announced the upcoming State of the Schools.

Council Member Gardy thanked Girl Scout Troop 5450 for attending tonight's meeting.

Council Member Duman advised that he attended the Nansemond-Suffolk Chapter of the NAACP Freedom Fund Banquet and the 2026 Comprehensive Plan public open house meeting.

Vice Mayor Brown thanked Girl Scout Troop 5450 for attending tonight's meeting.

Vice Mayor Brown acknowledged all of the City employees for their efforts during the recent snow storm.

Mayor Johnson thanked Girl Scout Troop 5450 for attending tonight's meeting.

Mayor Johnson reported on a recent meeting with Rear Admiral Diane Webber, United State Fleet Cyber Command.

Mayor Johnson extended her condolences to the families of Yancey Birdsong and Robert Pocklington.

Mayor Johnson acknowledged the Parks and Recreation Department for the recent Hootenanny at Lone Star Lakes Park Lodge.

Mayor Johnson thanked the Suffolk Police Department for their efforts.

Council Member Gardy, on a motion seconded by Council Member Parr, moved to adjourn, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

There being no further business to come before City Council, the regular meeting was adjourned at 9:06 p.m.

Teste: _____
Erika S. Dawley, City Clerk

Approved: _____
Linda T. Johnson, Mayor

AGENDA: April 2, 2014, Regular Session

ITEM: Special Presentation – Proclamation in recognition of “Week of the Young Child”

Suffolk’s Early Childhood Development Commission, in conjunction with the National Association for the Education of Young Children, has requested a proclamation in recognition of the “Week of the Young Child”, April 6th – 12th, 2014. Suffolk ECDC Chairperson Tamie Rittenhouse, and members of the Commission, will be present at the meeting to receive the proclamation.

AGENDA: April 2, 2014, Regular Session

ITEM: Special Presentation – Proclamation in recognition of “Suffolk Crime Victims’ Rights Week”

The Office of the Commonwealth’s Attorney Victim/Witness Services Program has requested a proclamation in recognition of “Suffolk Crime Victims’ Rights Week”, April 7th – 11th, 2014, in conjunction with this observance throughout the Commonwealth of Virginia and the United States. Commonwealth’s Attorney C. Phillips Ferguson and the Victim/Witness staff will be present at the meeting to receive the proclamation.

Removal of Items from the Consent Agenda and Adoption of the Agenda

Agenda Speakers

Consent Agenda

Public Hearings

AGENDA: April 2, 2014, Regular Session

ITEM: Ordinance – An ordinance to accept a Deed Open Space Easement over the common passive open space within Phase 2A of the Graystone Reserves Cluster Subdivision, Tax Map Number 26L, Parcels OS*A through F, Nansemond Voting Borough

Under the Cluster Development Use Pattern, passive open space shall be preserved as open space by a Conservation Easement which complies with the Virginia Conservation Easement Act (VC 10.1-1009-10.1-1016) or an open space easement which complies with the Virginia Open Space Land Act (VC 10.1-1700-10.1-1705). Under the Virginia Conservation Easement Act, the holder of the easement is a charitable corporation, charitable association, or charitable trust. Under the Virginia Open Space Land Act, the open space easement is held by a public body which includes any state agency having authority to acquire land for a public use, or any county or municipality, any park authority, any public recreational facilities authority, any soil and water conservation district or any community development authority formed pursuant to Article 6 (15.2-5152 et. seq) of Chapter 51 of Title 15.2, or the Virginia Recreational Facilities Authority.

In that the easements over passive common open space in cluster development subdivisions preserve that land as open space in perpetuity, it is recommended that the City accept such an easement in accordance with the Virginia Open Space Land Act over the common passive open space within Phase 2A of the Graystone Reserves Cluster Subdivision located off of Suburban Drive within the Nansemond Voting Borough.

Please be advised that the acceptance of this easement does not impact the taxing status of the subject passive common open space.

Budget Impact:

The granting of this Open Space Easement will not result in any addition to the Open Space Land Use Program that was previously repealed by City Council.

ATTACHMENTS:

- Ordinance
- Exhibit A – Deed Open Space Easement

ORDINANCE NO. _____

AN ORDINANCE TO ACCEPT A DEED OPEN SPACE EASEMENT OVER THE COMMON PASSIVE OPEN SPACE WITHIN PHASE 2A OF THE GRAYSTONE RESERVES CLUSTER SUBDIVISION, TAX MAP NUMBER 26L, PARCELS OS*A THROUGH F, NANSEMOND VOTING BOROUGH

WHEREAS, Phase 2A of the Graystone Reserves Cluster Subdivision has been approved utilizing the cluster development use pattern as allowed under the Unified Development Ordinance; and,

WHEREAS, in accordance with Section 31-411(d)(2) of the Unified Development Ordinance, the passive common open space shall be preserved as open space by a conservation easement that complies with the Virginia Open Space Land Act; and,

WHEREAS, the Virginia Open Space Land Act authorizes municipalities to accept conservation easements over passive common open space.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia that:

Section 1. Exhibits.

Exhibit A, "Deed - Open Space Easement", which is attached hereto, is hereby incorporated as part of this ordinance

Section 2. Findings.

City Council finds that the open space easement satisfies the requirements of the Unified Development Ordinance and the Virginia Open Space Land Act and hereby accepts the easement.

Section 3. Recordation.

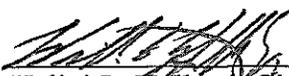
A certified copy of this ordinance shall be recorded, by the applicant, in the name of the property owner in the office of the Clerk of the Circuit Court of the City of Suffolk, Virginia.

This ordinance shall be effective upon passage and shall not be published or codified.

READ AND PASSED: _____

TESTE: _____
Erika S. Dawley, City Clerk

Approved as to Form:


Helivi L. Holland, City Attorney

This Deed is exempt from taxation pursuant to Virginia Code Sections 58.1-811A.3. and D.

ACCOUNT NO. 306002893
306002894
306002895
306002896
306002897

DEED
OPEN SPACE EASEMENT
Passive – Common Open Space – Cluster Development Use Pattern

THIS DEED OF EASEMENT is entered into October 16, 2013 by Sandler at Graystone, L.L.C. (herein referred to as “Grantor”) and the CITY OF SUFFOLK, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the “City”).

WITNESSETH:

WHEREAS, Grantor is the fee simple owner of the tract or tracts of land designated “Passive Common Open Space”, Account Numbers 306002893, 306002894, 306002895, 306002896 and 306002897 located in Sleepy Hole Borough, City of Suffolk, Virginia, described in Exhibit A attached to and recorded with this Deed; and

WHEREAS, the Passive Common Open Space owned by the Grantor has environmental, scenic, natural and recreational value in its present state as a passive open space area; and

WHEREAS, in furtherance of the purposes of the Open Space Land Act, Title 10.1, Chapter 17 of the Virginia Code, and as required by the City of Suffolk Unified Development Ordinance, the Grantor is willing to grant a perpetual Open Space Easement applicable to the Passive Common Open Space, restricting and limiting the use

of the land, on the terms and conditions and for the purposes set forth below, and the City is willing to accept the Easement; and

WHEREAS, the Grantor and the City recognize the value of the Passive Common Open Space in its present state, and have a common purpose of conserving the Passive Common Open Space, preserving the natural character of the Passive Common Open Space, and preventing the use of development of the Passive Common Open Space for any purpose or in any manner which would conflict with maintenance in accordance with purposes of the Open Space Act and the City of Suffolk Unified Development Ordinance; and

WHEREAS, the City is authorized by the Open Space Land Act to accept, hold and administer the Passive Open Space Easement, and the City possesses the authority to accept and is willing to accept the Passive Open Space Easement under the terms and conditions described below, and the Grantor, for itself, its successors and assigns waives any objection to the perpetual nature of this easement.

NOW THEREFORE, for good and valuable consideration, receipt of which all parties acknowledge, and in consideration of the mutual covenants and restrictions set forth below, the Grantor conveys to the City and its successors and assigns forever and in perpetuity an Open Space Easement of the nature and character and to the extent set forth below, applicable to the Passive Common Open Space more particularly described in Exhibit A, for the purposes of preserving the important features of the Passive Common Open Space and maintaining permanently the natural character of the Passive Common Open Space; and

The commitments, conditions and restrictions applicable to the Passive Common Open Space, for the purpose of achieving these goals are set forth below:

1. This Easement shall be perpetual. It is an easement in gross, and shall run with the land as an incorporeal interest in the Passive Common Open Space enforceable by the City against the Grantor and its heirs, successors and assigns. The Grantor for itself, its heirs successors and assigns waives any objection to the perpetual nature of the Easement.

2. There shall be no dumping of soil, trash, ashes, garbage, waste or offensive material. There shall be no dumping or filling in of any pond, wetlands, waterway, or other area except as may be permitted by applicable laws for the purpose of combating erosion. Accumulation or application of trash, refuse, junk, sludge or other unsightly material is not permitted on the Passive Common Open Space. There shall be no dumping, storage or placement on the Passive Common Open Space of any stumps, brush, grass or other land clearing debris from off-site.

3. Mining, dredging and removal of loam, gravel, soil, rock, sand, coal and other materials are prohibited, except as necessary for:

a. Maintenance of existing accesses; and

b. Construction and maintenance of accesses to uses and structures permitted within the provisions of this Deed of Easement. Accesses shall be designed and constructed to cause a minimum of interference with the existing topography, drainage, vegetation, wildlife, recreation and conservation purposes of the Passive Common Open Space.

4. Removal, destruction and cutting of trees, shrubs, or other vegetation is prohibited except as indicated on the Conceptual Plan and for:

- a. Reasonable maintenance of existing accesses or construction and maintenance of accesses permitted by this Deed of Easement; or
- b. Application of good management practices including the prevention or treatment of disease; or
- c. Removal of only such vegetation as is reasonably necessary for construction and improvements in substantial conformity with the Conceptual Plan and in accordance with this Deed of Easement.

5. There shall be no activities or uses detrimental or adverse to water conservation, erosion control, soil conservation and, subject to the permitted uses, the preservation of wildlife habitat.

6. Use, development and improvement of the Passive Common Open Space shall be permitted only in accordance with the City of Suffolk Unified Development Ordinance and as depicted on the Conceptual Plan approved by the City of Suffolk and referred to in Exhibit A. The Passive Common Open Space shall not be further divided, subdivided, or conveyed in fee except as depicted in the Conceptual Plan, and shall be maintained as open space.

7. There shall be no alteration of the topography of the Passive Common Open Space, except as required for the construction of structures, trails or other improvements in substantial conformity with the Conceptual Plan or reasonably necessary to provide for permitted uses.

8. The features designated on the Conceptual Plan for preservation, including all woodlands and wetlands shall be maintained and preserved by the Grantor, its heirs, successors or assigns substantially as depicted on the Conceptual Plan, and in substantially the same condition as exists on the date of execution of this Deed.

9. The Grantor expressly reserves to itself, its successors and assigns the right to:

a. Continue the scenic, recreational and naturalistic uses of the Passive Common Open Space.

b. Improve, repair, restore, alter, remodel or replace the permitted structures depicted on the Conceptual Plan with structures of similar size and purpose and construct any other improvements depicted on the Conceptual Plan provided that the changes are compatible with the conservation purposes of the Passive Common Open Space and all other provisions of this Easement.

c. Continue the use of the Passive Common Open Space for all purposes not inconsistent with this Easement.

10. The parties agree that monetary damages would not be an adequate remedy for the breach of any of the terms, conditions and restrictions of this Easement, and therefore, in the event that the Grantor, its heirs, successors or assigns, violate or breach any of these terms, conditions and restrictions, the City and its successors and assigns, may institute a suit and shall be entitled to enjoin by ex parte temporary and/or permanent injunction such violation and to require the restoration of the Passive Common Open Space to a condition in compliance with this Easement. The City, its successors and assigns, by any prior failure to act do not waive or forfeit the right to take any action as may be necessary to insure compliance with the terms, conditions and purposes of this Easement.

11. The City, its successors and assigns, have the right, with reasonable notice, to enter the Passive Common Open Space for the purpose of inspection to determine whether the Grantor, or its successors or assigns, are complying with the terms, conditions and restrictions of this Easement. This right of inspection does not include the interior of any dwellings.

12. The City may assign its rights under this Easement to any State or federal agency charged with the responsibility of conservation of natural areas, or open space, or to any non-profit, tax-exempt organization engaged in promoting conservation of natural areas; and if such assignee shall be dissolved or shall abandon this Easement, or the rights and duties of enforcement or if proceedings are instituted for condemnation of this Easement, the Easement and rights of enforcement shall revert to the City; and if the City shall be dissolved and if the terms of the dissolution fail to provide a successor, then the City of Suffolk Circuit Court shall appoint an appropriate successor.

13. The Grantor agrees for itself, its heirs, successors and assigns to give notice in writing to the City of the names and addresses of any parties to whom the Passive Common Open Space is to be transferred, at the time of transfer.

14. The City agrees to hold this Easement exclusively for conservation purposes, and will not transfer the Easement in exchange for money, other property, or services, except as provided in and permitted by the Open Space Land Act.

15. This Easement shall be construed to promote the purposes of the Virginia Open Space Land Act, to promote the Comprehensive Plan and Unified Development Ordinance of the City of Suffolk, and to promote the conservation purposes of this Easement, including such purposes are defined in the Internal Revenue Code.

16. Although this Easement in gross will benefit the public in ways recited above by encouraging and requiring elements of good land management, it shall not be construed to convey a right to the public of access or use of the Passive Common Open Space, and the Grantor, its heirs, successors and assigns shall retain exclusive rights to access and use.

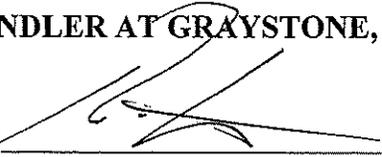
The covenants agreed to and the terms, conditions, restrictions and purposes imposed shall be binding not only upon the Grantor, but also its agents, personal representatives, heirs, assigns, and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the above described land, notwithstanding any restrictions at common law on the terms of easements in gross, or their enforcement.

17. Notwithstanding any other provisions of this Deed of Easement, the City of Suffolk Unified Development Ordinance and other applicable statutes, ordinances and regulations shall apply to the Property and shall take precedence over this Easement to the extent that those requirements are more restrictive than the terms of this Easement.

18. The invalidity or unenforceability of any provision of this Easement shall not affect the validity or enforceability of any provision of this Easement or any ancillary or supplementary agreement relating to the subject of this Easement.

Authorized representatives are set out below in acknowledgement of this conveyance.

SANDLER AT GRAYSTONE, L.L.C.

By: 
Raymond L. Gottlieb
Manager

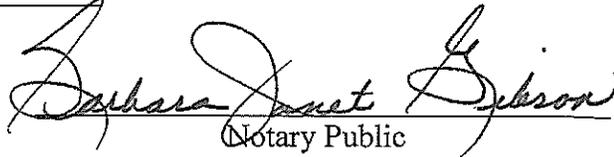
COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to wit:

The foregoing instrument was acknowledged before me this 16th day of October, 2013, by Raymond L. Gottlieb, Manager of Sandler at Graystone, L.L.C., Grantor.

My Commission expires: 4-30-2016



Barbara Janet Gibson
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #315763
My Commission Expires
April 30, 2016


Notary Public

Approved as to form:

Approved to substance:

City of Suffolk Attorney's Office

Director of Planning

Acceptance of this Deed by City of Suffolk, a political subdivision of the Commonwealth of Virginia, pursuant to Va. Code Section 15.2-1803, is evidenced by the signature below.

Date: _____

City Manager
Pursuant to Ordinance No. _____

COMMONWEALTH OF VIRGINIA,

CITY OF SUFFOLK, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 200~~6~~¹⁴ by _____, on behalf of the City of Suffolk.

My commission expires: _____

Notary Public

COMMONWEALTH OF VIRGINIA,

CITY OF SUFFOLK, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 200~~6~~¹⁴ by _____, on behalf of the City of Suffolk.

My commission expires: _____

Notary Public

EXHIBIT "A"

All that certain lot, piece or parcel of land located in Sleepy Hole Borough, City of Suffolk, State of Virginia, known as Open Space N, Area = 152,053 SF or 3.491 Ac., Open Space O, Area = 39,779 SF or 0.913 Ac., Open Space P, Area = 16,342 SF or 0.375 Ac., Open Space Q, Area = 53,628 SF or 1.231 Ac. And Open Space R, Area = 22,623 SF or 0.519 Ac., as shown on a certain plat entitled, "Subdivision of Graystone Reserves, Phase 2A", dated October 15, 2013, prepared by MSA, P.C. and duly recorded in the Clerk's Office of the Circuit Court of the City of Suffolk, Virginia, in Plat Cabinet _____, Slides_____.

Resolutions

AGENDA: April 2, 2014, Regular Session

ITEM: Staff Report - Proposed FY 2014-2015 Annual Action Plan for the City of Suffolk Community Development Block Grant Program and the Western Tidewater Home Consortium Home Investment Partnership Grant Program

Staff will brief City Council on the proposed FY 2014-2015 Annual Action Plan for the City of Suffolk's Community Development Block Grant Program and the Western Tidewater Home Consortium Home Investment Partnership Grant Program.

It is recommended that City Council schedule a public hearing for the April 16, 2014 City Council meeting to receive public comment on the proposed FY 2014-2015 Annual Action Plan.

A motion to do so has been placed on the agenda under the section entitled "motions" for action by City Council.

AGENDA: April 2, 2014, Regular Session

ITEM: Motion - A motion to schedule a public hearing to be held on April 16, 2014, to receive public comment on the proposed FY 2014-2015 Operating & Capital Budget

A public hearing is required to receive public comment on the proposed FY 2014-2015 Operating & Capital Budget. During the City Council Work Session, Council received the City Manager's proposed FY 2014-2015 Operating and Capital Budget. The public hearing will be set for the April 16, 2014 City Council meeting.

RECOMMENDATION:

Schedule a public hearing for April 16, 2014

AGENDA: April 2, 2014, Regular Session

ITEM: **Motion** – A motion to schedule a public hearing to be held on April 16, 2014, to receive public comment on the proposed FY 2014-2015 Annual Action Plan for the City of Suffolk Community Development Block Grant Program and the Western Tidewater Home Consortium Home Investment Partnership Grant Program

A public hearing is required to receive public comment on the proposed FY 2014-2015 Annual Action Plan for the City of Suffolk's Community Development Block Grant Program and the Western Tidewater Home Consortium Home Investment Partnership Grant Program. Should Council elect to do so, adoption of the City's FY 2014-2015 Annual Action Plan may be accommodated at the May 7, 2014 City Council meeting.

RECOMMENDATION:

Schedule a public hearing for April 16, 2014

Motion to Schedule a Work Session

Non-Agenda Speakers

New Business

Announcements and Comments