

**MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
May 26, 2009
7:30 P.M.**

PRESENT: Dr. Patricia P. Woodbury; Herbert H. Bateman, Jr.; Madeline McMillan; Sharon P. Scott; Tina L. Vick; and Joseph C. Whitaker-----6

ABSENT: Joe S. Frank-----1

1. Invocation

The invocation was rendered by Pastor Kenneth McDade, Rhema Christian Center.

2. Pledge of Allegiance to the Flag of the United States of America

The Pledge of Allegiance to the Flag of the United States of America was led by members of Troop 27, Boy Scouts of America, Grace United Methodist Church.

MOTION MADE BY COUNCILWOMAN SCOTT; SECONDED BY COUNCILWOMAN VICK; AND CARRIED UNANIMOUSLY TO EXCUSE MAYOR FRANK FROM THIS MEETING.

3. Public Hearings

(a) Conditional Use Permit – Larisa Properties, LLC, CU-09-261

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-09-261 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF PERMITTING THE OPERATION OF A CAR WASH IN A C1 RETAIL COMMERCIAL DISTRICT. This ordinance allowed by Conditional Use Permit, a car wash in conjunction with a laundromat, on a .82-acre parcel located at 13182 Jefferson Avenue, and a portion of 13186 Jefferson Avenue, and zoned C1 Retail Commercial. This item was initially scheduled to be heard by City Council at its Regular Meeting of April 28, 2009. The City Manager first received a letter from legal counsel representing the applicant requesting that this item be deferred until the May 26, 2009 Regular City Council Meeting. He advised that he had received another letter from legal counsel requesting that this item be deferred until the June 9, 2009 Regular Meeting of City Council. The Planning Commission voted (7:2) to recommend to City Council the approval of the Conditional Use Permit, with conditions, and the City Manager concurred with the recommendation.

Councilwoman McMillan disagreed with the matter being deferred. She reminded the matter had been pending since it left the Planning Commission on March 4, 2009, and felt City Council should vote the item up or down.

Councilwoman McMillan moved closure of the public hearing; seconded by Councilwoman Woodbury.

3. Public Hearings Continued

(a) Conditional Use Permit – Larisa Properties, LLC, CU-09-261 Continued

Mr. Billie Millner, Attorney, Jones, Blechman, Woltz and Kelly, representing the applicant, Larisa Properties, LLC, and Principals of Larisa Properties, LLC, was available for questions. He respectfully indicated, in the interest of justice and fair play, that the matter should be continued. He further indicated he had been around for a long time, and could not recall when a request was made to continue a matter, whether there was opposition present or not, that the matter was not continued. He felt the applicant was entitled to have a full City Council to hear the application. Mayor Frank was absent. Mr. Millner stated, in fairness, the Mayor should hear the discussion on the matter. He advised the applicant was in the process of meeting with neighbors, and was trying to reach resolution. He reminded that the Planning staff, Planning Commission and the City Manager recommended the project. Mr. Millner had not asked his clients to be present at the night's proceeding, but felt they were entitled to have their say before City Council. He could not believe City Council would consider shutting the business out and not providing a "day in court." He reminded this project was a simple car wash, by two brothers, who wanted to spend over \$1 million to contribute to the City's tax revenue. Mr. Millner reiterated that his clients were entitled to be heard. He felt it was an absence of good faith not to continue the matter. He asked members of City Council to "have a heart" and respectfully requested continuance of the matter.

Councilwoman McMillan stated that she was offended by Mr. Millner's remarks. She stated that Council had not always continued a matter when a Council member was absent. She reminded that Mr. Millner's request for a continuance came at the beginning of a holiday weekend and indicated that perhaps there were members of Council that could not reach him. Councilwoman McMillan reminded Mr. Millner that his clients had been present in the past and had an opportunity to speak, but chose not to. She stated that the neighbors had submitted a lengthy petition about the project. She further stated that City Council did not make decisions arbitrarily. She felt City Council had the needed information to reach a decision.

Mr. Millner apologized, and indicated it was not his intent to offend Councilwoman McMillan.

Councilwoman McMillan responded, just because the Planning Commission overwhelmingly passed the matter, and the Planning Department recommended it, and the City Manager wanted it, did not mean that the people that are not familiar with the problems in the area, with the people and with the project, should feel obligated to concur with the opinion. She stated that members of City Council could make a good decision without the Mayor's presence.

Councilman Bateman thanked Mr. Millner. He felt he was doing his job as Counsel and was not offended by Mr. Millner's remarks. He hoped that City Council would vote to defer, enabling Mr. Millner an opportunity to work things out and allow his clients the opportunity to speak.

Councilwoman Vick indicated her comments were favorable for the petition that was delivered to the City Clerk's Office. In defense of the residents, who had clearly signed a petition in opposition of the project. She did not want to keep them on hold and stated City

3. Public Hearings Continued
 - (a) Conditional Use Permit – Larisa Properties, LLC, CU-09-261 Continued

Council should make a decision.

Vote on Roll Call:
Ayes: Woodbury, McMillan, Scott, Vick
Nays: Bateman, Whitaker

Councilwoman McMillan moved denial of the above ordinance; seconded by Councilwoman Woodbury.

Vote on Roll Call:
Ayes: Woodbury, McMillan, Scott, Vick
Nays: Bateman, Whitaker

- (b) Conditional Use Permit, CU-09-262, Blount Family Limited Partnership

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-09-262 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A COMMUNICATION TOWER/ANTENNA ON A SITE ZONED M1 LIGHT INDUSTRIAL. This ordinance amended a previously approved Conditional Use Permit, CU-08-239, which allowed the construction of a 200-foot communications tower on a .96-acre parcel, located at 925 48th Street, zoned M1 Light Industrial. The amendment was to eliminate condition number five, which required the applicant to submit a \$50,000 bond for the removal of the tower in the event it was ever abandoned. The Planning Commission voted 5:1 to recommend to City Council approval of amending the bond amount in condition number five of the conditional use permit to \$7,500, with all other conditions remaining in effect. The City Manager concurred with that recommendation.

Mr. Frank Blount, 7505 River Road, Newport News, representing the Blount Family Limited Partnership, reminded the City approved Conditional Use Permit, CU-08-239, with nineteen conditions, in June 2008. He indicated Condition number 5 was a bond for removal of the tower in the amount of \$50,000. At the time of that approval, the applicant felt there would be no issues with the bond. Mr. Blount stated the Blount Family Limited Partnership had been bonded for much higher amounts, but when they attempted to get the bond, the bonding company would not issue a bond for \$50,000 for removal of a tower in the future. The bonding company stated the reason they would not issue the bond was due to the size of the Blount Family Limited Partnership and the lack of a termination date. He reminded that this occurred during the time that AIG had failed and insurance companies were frozen. The Blounts' insurance carrier, Lackey-Saunders Company, Inc., submitted a letter to the Planning staff verifying their many attempts to secure a bond from different bonding companies. As requested by staff, the Blount Family Limited Partnership submitted a quote to the Planning Department from a local tower company to remove the tower at a price of \$7,500. Mr. Blount asked the City to reduce the bond to a more reasonable rate.

3. Public Hearings Continued
 - (b) Conditional Use Permit, CU-09-262, Blount Family Limited Partnership Continued

Councilwoman Woodbury stated the \$7,500 compared to \$50,000 was quite a discrepancy. She indicated there must have been a good reason why the bonding company would not grant a bond. She was glad that the City Manager increased this by 20%. She questioned why Mr. Blount could not get a bond for at least \$25,000. Mr. Blount replied that the bonding company would not bond the Blount Family Limited Partnership for the removal of the tower. A cash bond would be required. The problem was there was no ending date and the bonding company would not issue a bond without a date. Councilwoman Woodbury indicated this was understandable as there may be liability in removing a tower, more than \$7,500.

Councilwoman Scott expressed concern and felt it should be made so the 20% increases should occur annually as opposed to every five years. If bonded at \$7,500 today, suppose two years from now, it would not cost \$7,500, and still would not be covered. Mr. Blount responded the tower would last fifty years. He indicated he was prepared to present a check for \$7,500. If the tower were removed, the City would have to return the money.

City Manager Hildebrandt stated that five years was suggested for administrative purposes, otherwise, Mr. Blount would be required to come in every year, and add an additional 5%. He felt it was not that important to do it every year. Councilwoman Scott replied if it were not important to do it every year, she did not see the importance at all. City Manager Hildebrandt explained the difference in the cost in 1-2 years was not significant, but it might be in 5 years. It could be changed to annually, but it would be more administratively difficult to ensure the applicant came in and paid for 5% of \$7,500.00.

Councilwoman Woodbury inquired about liability and who would be responsible for the damage in the event the City experienced another Isabel. She questioned who would be responsible for removal of the tower in that case. City Manger Hildebrandt replied insurance was involved. He added there was a special requirement for a self-collapsing tower. He indicated this would address the possibility if the Blount Family Limited Partnership were to go out of business, and the tower was left. The City would have the ability to have the tower removed. There was not a concern with the tower falling, but more of a matter of the site being abandoned, creating an eyesore. Councilwoman Woodbury questioned why there were not three estimates. She was not sure the \$7,500 would cover the cost of removing the tower. Mr. Blount indicated they were asked to supply one estimate.

Councilman Bateman was in support of five year increases, which was standard and typical. He did not feel the cost to remove the tower would be that great.

Councilman Bateman moved closure of the public hearing; seconded by Councilwoman Vick.

Vote on Roll Call:
Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker
Nays: None

3. Public Hearings Continued
 - (b) Conditional Use Permit, CU-09-262, Blount Family Limited Partnership Continued

Councilman Bateman moved adoption of the above ordinance; seconded by Councilwoman Vick.

Vote on Roll Call:
Ayes: Bateman, McMillan, Scott, Vick, Whitaker
Nays: Woodbury

- (c) Lease Agreement between the City and FLO TV, Incorporated

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN TOWER ATTACHMENT LEASE BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA AND FLO TV INCORPORATED DATED THE 26TH DAY OF MAY, 2009. This ordinance authorized the City Manager to execute that certain Tower Attachment Lease by and between the City of Newport News, Virginia, and FLO TV, Incorporated. This requested lease was to provide FLO TV designated space on the tower and land immediately adjacent to the tower at the GAT Site, located at 100 Tower Lane, Yorktown, Virginia. The proposed Tower Attachment Lease terms, specific equipment requirements, and location on the GAT Tower had been negotiated in coordination with the City's consultant for cell tower issues. The five-year lease would commence the earlier of November 1, 2009, or the start of construction. Rent would begin at \$30,000 annually, to be paid in advance. Rent would be increased annually by an amount equal to 3% of the rent for the prior lease year. The negotiated terms were reflective of current market rates and consistent with City Tower Attachment Lease transactions. The City Manager recommended approval.

(No registered speakers)

Councilman Bateman moved closure of the public hearing; seconded by Councilwoman Scott.

Vote on Roll Call:
Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker
Nays: None

Councilman Bateman moved adoption of the above ordinance; seconded by Councilwoman Vick.

Vote on Roll Call:
Ayes: Bateman, McMillan, Scott, Vick, Whitaker
Nays: Woodbury

4. Consent Agenda

Councilman Bateman moved adoption of the Consent Agenda, Items A through L, both inclusive, as shown below; seconded by Councilwoman Vick.

(a) Minutes of the Budget Work Session of May 5, 2009 - Revised

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

(b) Minutes of the Work Session of May 12, 2009

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

(c) Minutes of the Special Meeting of May 12, 2009

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

(d) Minutes of the Regular Meeting of May 12, 2009

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

(e) Substantial Amendment to the Previously Approved 2008-2009 Consolidated Plan for Community Development

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS APPROVING A SUBSTANTIAL AMENDMENT TO THE APPROVED 2008-2009 CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT AND APPROVING SUBMISSION OF A REQUEST FOR ADDITIONAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. This Resolution approved a substantial amendment to the 2008-2009 Consolidated Housing and Community Development Action Plan, which was required for receipt of American Recovery and Reinvestment Act Supplemental Community Development Block Grant (CDBG-R) funds. The American Recovery and Reinvestment Act of 2009 designated \$1 billion in CDBG funds to communities to carry out HUD-designated eligible activities on an expedited basis. The City was notified on May 5, 2009, of its eligibility for an allocation of \$430,989 for CDBG-R activities and had to submit a Substantial Amendment to its 2008-2009 Consolidated Housing and Community Development Action Plan to HUD by June 5, 2009. Newport News Redevelopment and Housing Authority would serve as the City's Admin-

4. Consent Agenda Continued
 - (e) Substantial Amendment to the Previously Approved 2008-2009 Consolidated Plan for Community Development Continued

Administrative Agent to oversee CDBG-R funds. No other local funds were required. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

- (f) Ordinance Amending City Code, Chapter 2, Article XXII – Deletion of Reference to Department of Management Services

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, BY REPEALING ARTICLE XXII, DEPARTMENT OF MANAGEMENT SERVICES. This ordinance amended the City Code, Chapter 2, by eliminating the reference to the Department of Management Services. The Department of Management Services, which historically had been primarily responsible for the management of City Council's agendas and logistics for its meetings, was merged into the City Manager's Office on February 1, 2006. Work previously done by this department was reassigned to existing staff within the City Manager's Office and has resulted in significant cost savings for the City. This ordinance amendment brought the City Code into compliance with the organizational structure. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

- (g) Ordinances Amending City Code, Chapters 2 and 16 – Deletion of References to the Office of Emergency Management

AN ORDINANCE TO AMEND AND REORDAIN (1) CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXII., DEPARTMENT OF HUMAN RESOURCES, SECTION 2-601, CRIMINAL HISTORY INVESTIGATION OF APPLICANTS FOR EMPLOYMENT; AND (2) CHAPTER 16, FIRE PREVENTION AND PROTECTION, BY ADDING THERETO A NEW ARTICLE, NAMELY, ARTICLE VII., EMERGENCY MANAGEMENT; AND (3) BY REPEALING ARTICLE XXVII., OFFICE OF EMERGENCY MANAGEMENT FROM CHAPTER 2, ADMINISTRATION. This ordinance amended the City Code, Chapter 2, Section 2-601, Administration, by eliminating the reference to the Office of Emergency Management, and Chapter 16, Section 44-146.19, Fire Prevention and Protection, by adding a new article to include

4. Consent Agenda Continued
 - (g) Ordinances Amending City Code, Chapters 2 and 16 – Deletion of References to the Office of Emergency Management Continued

Emergency Management. In November 2008, the Office of Emergency Management (OEM) and the Fire Department merged to provide additional support and resources to the emergency management function. A review of the OEM's organizational structure and the retirement of the Coordinator of Emergency Management provided an opportunity for reorganization. The Coordinator's position was both established and defined in the City Code; therefore, amendments were necessary to ensure the legal requirements were met to empower the Fire Chief to operate on the City's behalf in the capacity of Coordinator. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

- (h) Extension of Sublease between the City and Newport News Municipal Employees Credit Union, Inc.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN RENEWAL OF SUBLEASE NO. 1 FOR AN ATM BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND NEWPORT NEWS MUNICIPAL EMPLOYEES CREDIT UNION, INC., DATED THE 26TH DAY OF MAY, 2009. This resolution authorized the City Manager to execute an extension of the sublease between the City of Newport News, Virginia, and Newport News Municipal Employees Credit Union, Inc. The Newport News Municipal Employees Credit Union subleased from the City, 16 square feet of space, located on the first floor of Fountain Plaza Two, 700 Town Center Drive, for an ATM machine. The existing sublease provided that it may be renewed for additional five-year periods, subject to City Council approval. The extended term would commence on June 1, 2009, and terminate on May 31, 2014, with all other terms and conditions of the sublease, including the monthly rental rate of \$225, remaining in full force and effect. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

- (i) Ordinance Amending Section 40.2, Urban Enterprise Zone Boundaries and Technology Zones

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40.2, URBAN ENTERPRISE ZONE BOUNDARIES, OF THE CODE OF THE CITY OF NEWPORT NEWS,

4. Consent Agenda Continued
 - (i) Ordinance Amending Section 40.2, Urban Enterprise Zone Boundaries and Technology Zones Continued

VIRGINIA. This ordinance amended the City Code to change outdated nomenclature, “Urban Enterprise Zones” to “Enterprise Zones.” There were several technical corrections needed to effect the conformance of the City Code with the boundaries and incentives approved by the Commonwealth, as a result of the City’s 2008 Enterprise Zone application process. These adjustments were also necessary for the accuracy and convenience of administering the City’s Enterprise Zone Program. The City Attorney’s Office prepared four separate ordinances to accomplish the necessary technical corrections. This first ordinance change would also revise boundary descriptions, and delete Section 40.2-3, “Certified public accountant reimbursement pool; administration of pool,” which was abolished during the 2008 Enterprise Zone amendment process. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

- (j) Ordinance Amending Section 23-23, Reduction of License Tax

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 23, LICENSES, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I., IN GENERAL, SECTION 23-23, REDUCTION OF LICENSE TAX. This ordinance amended the City Code to change the obsolete language, “Department of Planning and Development” to “Department of Development.”

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

- (k) Ordinance Amending Section 40-123, Rebate of Consumer Utility Taxes in Enterprise Zones

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE VII., PURCHASERS OF ELECTRIC AND NATURAL GAS UTILITY SERVICES, SECTION 40-123, REBATE OF CONSUMER UTILITY TAXES IN ENTERPRISE ZONES. This ordinance amended the City Code to change the obsolete language, “Department of Planning and Development” to “Department of Development.”

(No registered speakers)

4. Consent Agenda Continued
- (k) Ordinance Amending Section 40-123, Rebate of Consumer Utility Taxes in Enterprise Zones Continued

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

- (l) Ordinance to Repeal Section 40-106, Rebate of Local Exchange Telephone Service Tax

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE VI., TAX ON PURCHASERS OF LOCAL EXCHANGE TELEPHONE SERVICE, BY REPEALING SECTION 40-106, REBATE OF LOCAL EXCHANGE TELEPHONE SERVICE TAX. This ordinance amended the City Code by repealing Section 40-106, because the local exchange telephone service was no longer in existence.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

5. Congestion Mitigation and Air Quality Improvement Project (CMAQ): Citywide Wayfinding Sign Program – Phase II
- A. Resolution Authorizing Execution of a Project Administration Agreement

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS RATIFYING CONGESTION MITIGATION AND AIR QUALITY PROJECT FUNDING FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR A WAYFINDING PROJECT AND GRANTING AUTHORITY TO PROCEED WITH THE PROJECT. This resolution authorized the City Manager to execute the standard project administration agreement for the Congestion Mitigation and Air Quality Improvement Project – Citywide Wayfinding Sign Program Phase II, in the Mary Immaculate Hospital/Patrick Henry Mall and the Riverside Hospital/Christopher Newport University areas. The City of Newport News had a CMAQ Grant from VDOT for the fabrication and installation of approximately 25 Wayfinding Signs. This was the second phase of a citywide program to place signs that better directed motorists to destinations within the City. The City was required to administer and front fund the construction of this project. Upon completion of this project, the City would be reimbursed 100% from federal and state funds through VDOT; therefore, the local cost was \$0. The City Manager recommended approval.

(No registered speakers)

5. Congestion Mitigation and Air Quality Improvement Project (CMAQ): Citywide Wayfinding Sign Program – Phase II Continued

A. Resolution Authorizing Execution of a Project Administration Agreement Continued

(No registered speakers)

Councilman Bateman moved adoption of the above resolution; seconded by Councilwoman Scott.

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

B. Appropriation of Funds

A RESOLUTION APPROPRIATING FUNDS FROM REVENUE FROM THE COMMONWEALTH VIRGINIA DEPARTMENT OF TRANSPORTATION UPC 84365-CITYWIDE WAYFINDING SIGN – PHASE II (\$500,000.00) TO UPC 84365 CITYWIDE WAYFINDING SIGN – PHASE II (\$500,000.00). This resolution appropriated \$500,000.00 of front funding for the Congestion Mitigation and Air Quality Improvement Project - Citywide Wayfinding Sign Program Phase II, in the Mary Immaculate Hospital/Patrick Henry Mall and the Riverside Hospital/Christopher Newport University areas. In July 2005, the City received CMAQ grant funding in the amount of \$500,000.00 from federal and state funds. An appropriation for front funding in the amount of \$500,000.00 was necessary to fund the complete construction cost of this project. Upon completion of this project, the City would be reimbursed 100% from federal and state funds through VDOT.

(No registered speakers)

Councilman Bateman moved adoption of the above resolution; seconded by Councilwoman Scott.

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

6. Arterial Streets Resurfacing Program – American Recovery and Reinvestment Act of 2009 Project

A RESOLUTION REQUESTING PROGRAMMING OF A PROJECT SUBJECT TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) PROJECT FUNDING FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE ARRA – ARTERIAL STREETS RESURFACING PROGRAM. This resolution authorized the City Manager to execute an agreement for an arterial streets resurfacing project that would be funded under the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA). The project consisted of resurfacing Jefferson Avenue

6. Arterial Streets Resurfacing Program – American Recovery and Reinvestment Act of 2009 Project Continued

from Hemlock Road to J. Clyde Morris Boulevard, Warwick Boulevard from 50th Street to 71st Street, and Warwick Boulevard from Nettles Drive to Denbigh Boulevard. The City had been successful in obtaining approval for \$3,087,820 from the ARRA funds for this project. City Manager Hildebrandt reminded this money had originally been intended for the Richneck Road Widening Project, Phase I. Due to the complications found with the requirements for using the money for that purpose, the City opted to use its second choice, which was resurfacing money and additional money to work on traffic signal projects. The City would be responsible for front funding and administering this project. Funding was 100% reimbursable from federal funds through VDOT. City Manager Hildebrandt recommended approval.

(No registered speakers)

Councilwoman Vick moved adoption of the above resolution; seconded by Councilman Bateman.

Councilwoman Woodbury inquired about the Richneck Road project not qualifying for these funds. City Manager Hildebrandt replied there were many complications, to which the City would have to go through in order to get funding, and there was some doubt that the City would actually qualify, it was decided to proceed with the Richneck Road project using local money and a grant from the State, which would cover approximately \$1 million. He did not want to risk losing the money and not getting the project done.

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

7. Citywide Signal System Upgrade of Traffic Signal Controllers – American Recovery and Reinvestment Act of 2009 Project

A RESOLUTION REQUESTING PROGRAMMING OF A PROJECT SUBJECT TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA) PROJECT FUNDING FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE ARRA – CITYWIDE SIGNAL SYSTEM UPGRADE OF TRAFFIC SIGNAL CONTROLLERS. This resolution authorized the City Manager to execute an agreement for a Citywide Signal System Upgrade of Traffic Controllers Project that would be funded under the provisions of the American Recovery and Reinvestment Act of 2009. The Virginia Department of Transportation (VDOT) was administering a project for the City of Newport News' Citywide Signal System Upgrade. The City had been successful in obtaining approval for additional funds in the amount of \$1,050,000.00 from the ARRA for the purpose of the Citywide Signal System Upgrade of Traffic Signal Controllers. This was a VDOT administered project which would upgrade traffic signal controllers, including software and hardware throughout the City. There was no cost share requirement for this project.

(No registered speakers)

7. Citywide Signal System Upgrade of Traffic Signal Controllers – American Recovery and Reinvestment Act of 2009 Project Continued

Councilwoman McMillan inquired about video displays and whether timed pedestrian crossings were included in the project. Councilwoman Woodbury inquired whether any of the traffic signals would be timed. City Manager Hildebrandt introduced Deputy City Manager Neil Morgan to provide information.

Deputy City Manager Morgan responded this was a multi-phased \$10 million type of project, which was ongoing and also involved tying into the Schools fiber optic system. A video display was the Department of Engineering's ability to monitor what was happening at a particular traffic light. He added if that particular signal had pedestrian crossings, this would be monitored at the light. Councilwoman McMillan inquired again, whether any of these monies would pay to put in the pedestrian crossing signals. Deputy City Manager Morgan replied these particular monies would not. Councilwoman McMillan inquired whether there was a plan to seek funding to do so. Deputy City Manager Morgan responded yes, there were some monies, which were deployed from time to time. This could be coordinated with those efforts.

Councilwoman Scott inquired whether the traditional system had to be used or was there a plan to redesign the City's light system. Mr. Morgan indicated there was no rule associated with the monies and nothing would preclude the City from making modifications to signals in the future. He further added the timing resignaling project would be ongoing for a long time and technology would be changing. Councilwoman Scott asked that it be considered for some of the major intersections in the City, such as Oyster Point Road.

Deputy City Manager Morgan indicated this technology would be reviewed and reported back to City Council.

Councilwoman Vick inquired whether there were monies for the 25th Street corridor to assist with eliminating some of the unsightly wiring. Deputy City Manager Morgan replied this particular source of funds could not, but the City was researching matters with Virginia Power with regard to relocating lines in that area and doing some cooperative undergrounding. He added these particular monies had to be dedicated to traffic signal timing work.

Councilwoman Vick moved adoption of the above resolution; seconded by Councilwoman Scott.

Vote on Roll Call:
Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker
Nays: None

8. Appropriations

Councilwoman Scott moved adoption of Item A through C, both inclusive, as shown below; seconded by Councilman Bateman.

8. Appropriations Continued

(a) Commonwealth's Attorney's Office – Virginia Domestic Violence Victims Fund

A RESOLUTION APPROPRIATING FUNDS FROM STATE REVENUE (\$40,000.00) TO VDVVF GRANT PROSECUTOR (\$40,000.00). This resolution appropriated \$40,000.00 in Virginia Domestic Violence Victims Funds (VDVVF), from the Department of Criminal Justice Services to the Commonwealth's Attorney's Office. The VDVVF was renewed for FY 2009 in the amount of \$40,000.00. These funds allowed the Commonwealth's Attorney's Office to cover the personnel costs of a part-time attorney, tasked with prosecution of misdemeanor and felony cases involving domestic violence, sexual assault, stalking, and family abuse. It was estimated that approximately 600 cases would be prosecuted with support from these funds. The grant funds would be received from the Department of Criminal Justice Services. No local funds were required. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

(b) Newport News Public Schools – Self Insurance Compensation

A RESOLUTION APPROPRIATING FUNDS FROM SCHOOL WORKERS' COMPENSATION FUND RESERVES (\$245,000.00) TO SCHOOL WORKERS' COMPENSATION FUND (\$245,000.00). This resolution appropriated \$245,000.00 to the Newport News Public School (NNPS) Division. It was anticipated that the NNPS Worker's Compensation Self-Insurance Fund would reach its legal appropriation limit prior to June 30, 2009. This appropriation was necessary to continue to pay claims as incurred by the School Division. Approval of this resolution would allow for use of School Workers' Compensation Fund Reserves in the amount of \$245,000.00. No other local funds were required. This would reduce the School Workers' Compensation Fund Reserves from \$2,891,142.00 to \$2,646,142.00. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

(c) Public Works – Highway Maintenance Funds

A RESOLUTION APPROPRIATING REVENUE TO FORCE ACCOUNT-STREET/HIGHWAY MAINTENANCE GENERAL FUND REVENUE (\$589,551.00) AND STREET/HIGHWAY MAINTENANCE FUND (\$589,551.00) AND APPROPRIATING EXPENDITURES TO CONTRACTUAL PAVING/PUBLIC WORKS DEPARTMENT (\$589,551.00) AND STREET/HIGHWAY MAINTENANCE FUND QUALIFIED ASPHALT/

8. Appropriations Continued

(c) Public Works – Highway Maintenance Funds Continued

RESURFACING (\$589,551.00). This resolution appropriated an additional \$589,551.00 of FY 2009 Street and Highway Maintenance State Revenue to the Public Works Department for arterial street resurfacing contracts. Fiscal Year 2009 State revenue for Street and Highway Maintenance would be higher than originally estimated by \$589,551.00. These additional State funds would be appropriated to the Public Works General Fund to allow a portion of the City's normal residential street paving and a reconstruction program to be carried out this fiscal year. Approval of this resolution would allow the use of additional State revenue with no local monies required. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Woodbury, Bateman, McMillan, Scott, Vick, Whitaker

Nays: None

9. Citizen Comments on Matters Germane to the Business of City Council

Ms. Debbie Cain, 231 Milstead Road, Newport News, City Farm employee commented on a study by MGT presented to City Council at its Work Session of April 14, 2009 regarding jail overcrowding. Ms. Cain indicated the idea presented in the study was that the City could save between one-half million dollars to \$1.9 million by combining the City Farm with the Sheriff's Office and constructing a new minimum security facility for \$12 - \$18 million. Ms. Cain stated there was no need for an additional facility at this time. She further stated when properly utilized, the City Farm saved the City more money than the best case scenario indicated in the MGT study. She asked Council to give consideration to the fact that any contract between the City and the Sheriff's Office for inmate labor would only be as binding as the number of inmates the Sheriff said were eligible to perform labor on any given day. She further urged City Council to give consideration to keeping the City Farm under the management of the City to assure future accountability and savings. A copy of Ms. Cain's remarks are attached, in full, and made a part of these minutes.

Ms. Joan Minarik, 114 Linbrook Drive, Newport News, commented about the many beautiful resources that needed to be protected. She felt the King William Reservoir offered very little, but taking away the wetlands, homesteads, and the land of the Indians. It provided a waterside area, and water, which had not been proven was needed. Other resources of concern to Ms. Minarik were property on Jefferson Avenue near Oyster Point, and City Farm, where developers were making plans for multi-use facilities. She questioned the need, sighting problems by City Center, Stoney Run, and Port Warwick. She suggested the City not build more, but utilize what it had. She urged officials to research the reasons people did not want to move to Newport News, i.e. schools, crime, taxes. Ms. Minarik stated that crime was an issue that needed to be addressed, and look for ways to make Newport News a place that people wanted to live.

Ms. Latrina Fox, 601 Kentucky Avenue, Newport News, City Farm employee, commented on the proposal to combine the City Farm with the Newport News Sheriff's Office.

9. Citizen Comments on Matters Germane to the Business of City Council
Continued

She stated the City Farm employees were aware of the amount of hard work that went into ensuring the City saved money. She added that the City Farm took pride in turning in several hundreds of thousands of dollars at the end of each budget year. The City Farm paid the salary of the Canteen Coordinator, the GED teacher and the Drug Counselor out of the proceeds from the proceeds from the Inmate Canteen Fund. Under the Sheriff's Office, these salaries would be paid out of the budget since the Sheriff contracted out the Canteen services to Aramark. Additionally, the City Farm paid for essential inmate-related purchases out of the Canteen profits rather than the City having to cover these expenses. Under the management of the Sheriff, the cost of running the City Farm would be increased, rather than a saving for the City. Ms. Fox stated the City Farm returned money each year, pointing out the Sheriff's budget increased by 40% over the past three years. She asked that Council take her comments under consideration before making a decision about the City Farm.

Mr. Glen Besa, Director, Sierra Club, 4893 Burnham Road, Richmond, shared results of a report issued by the Sierra Club and the Alliance to Save the Mattaponi. In light of the Federal Court decision finding that the Corps of Engineers and the City of Newport News had failed to adequately consider alternatives to the King William Reservoir (KWR), a report was commissioned to review the alternatives. A copy of the report, "A Survey of Sustainable Water Supplies in Virginia's Lower Peninsula, *Alternatives to the King William Reservoir Project*, is attached and made a part of these minutes. Mr. Besa stated, in 1990, Newport News sold 46 million gallons of water per day. It was projected, by 2010, Newport News would sell 61 million gallons per day, or a 15 MGD increase. In reality, Newport News expected projected sales of 43 MGD for 2009, a decrease in water consumption, even though there was an increase in customers. Mr. Besa stated the decreases were a result of federal regulations related to more efficient toilets, shower heads, etc. He stated Newport News had a disincentive to conserve because they had been compelled to justify the KWR. He further stated there had been very little activity by the City to encourage conservation, whereas other jurisdictions had done quite a bit. Mr. Besa indicated the KWR was a very expensive project, was very destructive to the environment, and was not really needed. He pointed out what had been available, was the opportunity to pursue a variety of alternatives to the KWR, i.e. Big Bethel Reservoir, and a range of other low-impact development projects. He suggested encouraging the retrofitting of existing buildings with low-flow devices. Mr. Besa indicated the Courts had done Newport News Waterworks customers a favor by halting the KWR Project, and suggested that City Council take a serious look at the project and consider responsible alternatives.

Mr. Thomas I. Ellis, 327 Brightwood Avenue, Hampton, stated that the role of City Council had traditionally been to promote and facilitate economic growth, and the environmental community had been seen in an adversarial role, which was the frame that shaped the KWR project. Mr. Ellis stated the Federal Court's decision was based on facts, not politics. He stated this was not a win or loss, but recognition that the facts did not justify the need for a new reservoir. He suggested that the City enter into a collective process of solving problems. The environmental community was not the adversary, but partner in solving the biggest single problem - how to sustain a healthy and thriving community in a finite watershed without compromising the community or the watershed. Mr. Ellis urged that City Council carefully consider the proposed

9. Citizen Comments on Matters Germane to the Business of City Council
Continued

alternatives submitted by the report sponsored by the Sierra Club as a friendly gesture to enter into a partnership to solve common problems.

Ms. Carol Hogge, 3 Gay Drive, Newport News, commented on the widespread use of the Deep Creek Harbor during the Memorial Day holiday weekend. She stated most citizens that fished on the Deep Creek side of the harbor were now fishing on the Menchville side. She advised of the problem that those fishing were going on top of the watermen's boats. She stated there was a need for a public pier and asked, once again, that the Deep Creek Pier be replaced.

Mr. C. W. Powell, 3 Gay Drive, Newport News, commented on the opening of the new pier in the Buckroe area of Hampton. He suggested that the plug be pulled on the King William Reservoir project to help put money back into the City's budget to rebuild the Deep Creek Pier.

10. New Business and Councilmember Comments

Councilwoman Woodbury requested that copies of the report of showing alternatives to the KWR project, as well as remarks made by Ms. Cain and the MGT Study as it related to City Farm. She indicated that she had read the MGT Study, and felt it was flawed as it was based on information that was not available to the Consultant. She disagreed with spending \$100,000 for an incomplete report because good information was not available. She commended Ms. Cain and Ms. Fox for sharing their comments.

Councilwoman Woodbury commented on the Outdoor Learning Center recently opened at Menchville High School, which included an amphitheater, as well as ponds, and cafes. Different students from different clubs and groups had adopted a spot to keep that portion of the Learning Center clean.

Councilwoman Woodbury commented on the Blue Star Marker at Huntington Park that honored people that died in wars, particularly World War II.

Councilwoman Woodbury commented on the impressive Memorial Day Service at the Victory Arch sponsored by American Legion Post 25.

Councilwoman McMillan thanked members of Troop 25 of the Boy Scouts of America, Mr. Glen Besa, and Mr. Thomas Ellis for their attendance and participation.

Councilwoman McMillan recognized and commended Ms. Beth Smith, President of the Denbigh-Warwick Business Association. She commented on the Job Fair held on May 14, 2009, sponsored by the Denbigh-Warwick Business Association. Councilwoman McMillan reported there were over 360 participants without security and incident. She thanked members of the community that volunteered to assist, including Ms. Smith and Mr. Carl Jackson, District Planner, Newport News Department of Planning.

10. New Business and Councilmember Comments

Councilwoman McMillan congratulated Mr. Darcy Terry, who received the Melvin Jones Award from the Denbigh Lions Club. She commended Mr. Terry for his time, energy and community involvement.

Councilwoman Scott expressed accolades on the Job Fair sponsored by the Denbigh-Warwick Business Association. She commended the Denbigh-Warwick Business Association, the vendors and the many participants of the Job Fair.

Councilwoman Scott announced the Feed the Future Leaders summer program.

Councilwoman Scott offered condolences to the families of the victims recently killed in Newport News.

Councilwoman Vick offered condolences to the families of the victims recently killed in Newport News.

Councilwoman Vick offered condolences to the family of Sherita Rhodes, a long-time family friend and resident of the Southeast community.

Councilwoman Vick reminded of the South District Town Hall Meeting scheduled for June 4, 2009, 6:00 – 8:30 p.m. at the Downing Gross Cultural Arts Center, sponsored by the Newport News Police Department. Councilwoman Vick and Vice Mayor Whitaker would be guests.

Vice Mayor Whitaker advised about a Scholarship Award Program available to public housing/Section 8 clients sponsored by the Newport News Redevelopment and Housing Authority. He announced there had been 204 scholarships awarded since the program's inception.

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 8:53 P.M.

Mabel Washington Jenkins, CMC
City Clerk

Joseph C. Whitaker
Vice Mayor
Presiding Officer

A true copy, teste:

City Clerk