

**MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
June 23, 2009
7:30 P.M.**

PRESENT: Joe S. Frank; Madeline McMillan; Sharon P. Scott; Tina L. Vick; Joseph C. Whitaker; Dr. Patricia P. Woodbury; and Herbert H. Bateman, Jr.-----7

ABSENT: None-----0

A. Invocation

The invocation was rendered by Reverend Floyd Blackwell, Miracle Temple Baptist Church.

B. 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 Councilwoman Madeline McMillan.

C. Public Hearings

- (1) Change of Zoning, Newport News Planning Commission, Z-09-273, Change to Residential for Conformity of Uses

AN ORDINANCE TO AMEND AND REORDAIN ORDINANCE NO. 5028-97 BY AMENDING THAT CERTAIN MAP ENTITLED, "ZONING DISTRICT MAP" (CONSISTING OF REAL ESTATE TAX ASSESSMENT MAPS 001 THROUGH 322 AND KEPT ON FILE IN THE OFFICES OF THE DEPARTMENTS OF CODES COMPLIANCE AND PLANNING) DATED THE 10TH DAY OF JUNE, 1997, WHICH SAID MAP IS MADE A PART OF THE SAID ORDINANCE NO. 5028-97. This ordinance changed the zoning of 14 parcels located at 800 to 818 Chapin Wood Drive, from C1 Retail Commercial to R4 Single Family Dwelling, to bring the existing Single-Family residences into conformity with the existing land use and the Framework for the Future 2030 Comprehensive Plan. On April 1, 2009, the Planning Commission initiated a rezoning of 14 properties located on Chapin Wood Drive, from C1 Retail Commercial to R5 Low Density Multiple Family Dwelling. The properties originally were a part of the Brookside Planned Residential Development (PRD), which permitted only townhouse development. Only a portion of the PRD was developed and the remaining property was rezoned and developed in accordance with a proffered change of zoning that limited the density to 6.9 units per acre and the development to single-family residential. The 14 properties to be rezoned were platted and approved under the C1 Retail Commercial zoning classification. Prior to the 1997 citywide comprehensive rezoning, residential uses were permitted in commercial zoning districts. The Department of Planning recommended the change to R4 Single Family Dwelling, instead of R5 Low Density Multiple Family Dwelling to be consistent with existing land uses and the R4 zoning density of 6.6 units per acre. The Planning Commission voted unanimously (9:0) to recommend approval of the change to R4 Single Family Dwelling and the City Manager concurred with the recommendation.

C. Public Hearings Continued

- (1) Change of Zoning, Newport News Planning Commission, Z-09-273, Change to Residential for Conformity of Uses Continued

Mr. Ricardo R. Santamaria, 801 Chapin Wood Drive, Newport News, commented that he was denied a loan and could not refinance his home because the property was zoned C1 Retail Commercial. Mayor Frank explained it was a non-conforming use. He asked whether Mr. Santamaria agreed with the proposed change of zoning. Mr. Santamaria agreed with the change of zoning.

Mr. Jude Nazon, 800 Chapin Wood Drive, Newport News, indicated he was able to refinance his home. He did not want the value in it to decrease. He indicated that the neighborhood already had traffic issues. He preferred the neighborhood remain residential.

Councilwoman McMillan advised that she had attended the meeting with the residents. She indicated the zoning of the property was a surprise to the residents. She was amazed that the homes were allowed to be built when the zoning was not residential.

Mayor Frank explained, when the homes were built, there was a permitted use in commercial. When the Comprehensive rezoning was changed in 1997, it became a non-conforming use. It was a legal use when the homes were built.

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

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

- (2) Conditional Use Permit, Wesley Sharpe, 450 Bellwood Road, CU-09-264

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-09-264 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A SMALL MOTOR VEHICLE AND SERVICE FACILITY. This ordinance allowed, by Conditional Use Permit, a small motor vehicle repair facility on a 0.90 acre parcel located at 450 Bellwood Road and zoned M1 Light Industrial. An automobile repair facility occupied the property in the past. The facility had been closed for several years, and to operate an automobile repair facility on the property now required a conditional use permit. All work associated with the automobile repair facility would be conducted in an enclosed building

C. Public Hearings Continued

- (2) Conditional Use Permit, Wesley Sharpe, 450 Bellwood Road, CU-09-264
Continued

minimizing the impact of the use on abutting property owners. The Planning Commission voted 9:0 to recommend to City Council the approval of the conditional use permit, with conditions, and the City Manager concurred with the recommendation.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

- (3) Ordinance Amending City Code, Chapter 42, Water Supply, §42.33:
Water Rates and Fees, Fire Hydrant Fee

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 42, WATER SUPPLY, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE III., WATER RATES AND FEES, SECTION 42-33, RATES AND FEES. This ordinance authorized an increase in the fire hydrant fee. On May 12, 2009, Council approved modifications to Chapter 16, which increased the fire protection service fee for Waterworks' customers residing in the City of Newport News. Waterworks proposed an increase in the fire hydrant fee, from \$200 to \$216 per hydrant, per year, which affected customers residing outside of the City. Revenues generated by this fee were used to maintain the hydrants in fire-fighting-ready condition and to support that portion of the system that provided fire flows. Notice of Public Hearing was advertised in the June 11, 2009 and June 19, 2009 editions of the Daily Press, on the proposed increase. The City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

C. Public Hearings Continued

- (3) Ordinance Amending City Code, Chapter 42, Water Supply, §42.33:
Water Rates and Fees, Fire Hydrant Fee Continued

Vice Mayor Whitaker moved adoption of the above ordinance; seconded
by Councilwoman Scott.

Vote on Roll Call:

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

Nays: None

D. Consent Agenda

Councilman Bateman moved adoption of the Consent Agenda, Items 1 through
10, both inclusive, as shown below; seconded by Councilwoman Scott.

- (1) Minutes of the Work Session of June 9, 2009

Vote on Roll Call:

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

Nays: None

- (2) Minutes of the Special Meeting of June 9, 2009

Vote on Roll Call:

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

Nays: None

- (3) Minutes of the Regular Meeting of June 9, 2009

Vote on Roll Call:

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

Nays: None

- (4) Resolution of Recognition: Jeffery Henderson

A RESOLUTION OF RECOGNITION FOR JEFFERY HENDERSON. This resolution recognized Mr. Jeffery Henderson, who through selfless acts, illustrated the caring nature of Newport News City employees by donating his organs to two strangers in dire need of transplants. Mr. Henderson began his service with the City in December 2000, and was a dedicated full-time employee, working in the Treasurer's Office as an Information Technology Analyst. In July 2005, Jeffery, who had a rare blood type of B positive, sought out a recipient needing his blood type, and underwent a kidney transplant to a Chicago, Illinois, woman on June 27, 2005. On May 4, 2009, Jeffery underwent a ten-hour operation in Richmond, to donate part of his liver to a mother of three, who had been on the transplant waiting list for several years. Jeffery used his own accrued time to donate his liver to a stranger in dire need of a transplant. The City Manager recommended approval.

D. Consent Agenda Continued

- (4) Resolution of Recognition: Jeffery Henderson Continued

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (5) Resolution of Recognition: Menchville High School Boys' Baseball Team, the "Monarchs," and Coach Phil Forbes

A RESOLUTION OF RECOGNITION FOR THE MENCHVILLE HIGH SCHOOL BOYS' BASEBALL TEAM, AND COACH PHIL FORBES. This Resolution recognized the Menchville High School Boys' Baseball Team, "the Monarchs," and Coach Phil Forbes, Group AAA State Baseball Champions. On June 7, 2009, the Monarchs won the State Championship, defeating Hanover by the score of 7-1. The baseball team finished the season with a record of 26 wins and only 2 defeats; a testament to its hard work, dedication and discipline. This championship effort earned Menchville High School its first State championship and a place in local sports history, as the first Peninsula Division Baseball Team to win a State championship. The City Council recognized the outstanding achievements of Coach Phil Forbes, his coaching staff, and the Menchville High School Boys' Baseball Team.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (6) Ordinance Amending the Fiscal Year 2009 and Fiscal Year 2010 Classification and Pay Plans to include Apprenticeship Program

AN ORDINANCE AMENDING AND REORDAINING ORDINANCE NO. 6487-08 WHICH APPROVED AND ADOPTED THE FISCAL YEAR 2009 CLASSIFICATION AND PAY PLAN FOR THE EMPLOYEES OF THE CITY OF NEWPORT NEWS AND ORDINANCE NO. 6587-09 WHICH APPROVED AND ADOPTED THE FISCAL YEAR 2010 CLASSIFICATION AND PAY PLAN FOR THE EMPLOYEES OF THE CITY OF NEWPORT NEWS. This ordinance amended and reordained Ordinance No. 6487-08, which approved the Fiscal Year 2009 Classification and Pay Plan for employees of the City of Newport News, and Ordinance No. 6587-09, which Council approved and adopted for the Fiscal Year 2010 Classification and Pay Plan, to include the Apprenticeship Program. The City had an Apprenticeship Program that was initiated to provide opportunities for employees to develop additional knowledge, skills and abilities, and assist the City in attracting and retaining employees. This program provided employees with supplemental pay allowances upon successful completion that ranged from an additional .40 cents per hour to .75 cents per hour. In reviewing the implementation of the program, it was determined that supplemental pay allowances for years 4 and 5 were inadvertently omitted from the FY 2009 and FY 2010

D. Consent Agenda Continued

- (6) Ordinance Amending the Fiscal Year 2009 and Fiscal Year 2010 Classification and Pay Plans to include Apprenticeship Program Continued

Classification and Pay Plan ordinances. This ordinance corrected the omissions. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (7) Ordinance Amending City Code, Chapter 2, Administration, §2-18: Assessment for Courthouse Maintenance Fees

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I., IN GENERAL, SECTION 2-18, ASSESSMENT FOR COURTHOUSE CONSTRUCTION, RENOVATION OR MAINTENANCE. This ordinance amended Chapter 2, Administration, §2-18, which allowed the Court Clerk to collect a \$2 Courthouse Construction, Renovation or Maintenance assessment in civil cases, in addition to the \$4 assessment authorized under City Code §22-41. The General Assembly amended §17.1-281 of the Code of Virginia during its 2009 Session, which authorized localities to assess the \$2 fee. City Code §2-18 authorized the Court Clerk to collect an assessment of \$2 for courthouse construction, renovation, or maintenance in all criminal and traffic cases. City Code §22-41 authorized the Court Clerk to collect an assessment of \$4 in civil cases to support the law library. The amendment to §2-18 allowed for the collection of the \$2 assessment, in addition to the \$4 assessment authorized under §22-41. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (8) Ordinance Amending City Code, Chapter 2, Administration, §2-96: Tuition Refund; Administrative Policies and Procedures

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE IV., EMPLOYEE BENEFITS, SECTION 2-96, TUITION REFUND; ADMINISTRATIVE POLICIES AND PROCEDURES. This ordinance amended and reordained the City Code, Chapter 2, Administration, Article IV. Employee Benefits, §2-96, Tuition Refund; Administrative Policies and Procedures. The Tuition Reimbursement Program was not funded in the FY 2010 Operating Budget. The program was established in the City Code as an employee

D. Consent Agenda Continued

- (8) Ordinance Amending City Code, Chapter 2, Administration, §2-96: Tuition Refund; Administrative Policies and Procedures Continued

benefit, and since it was not funded for FY 2010, the City Code was amended to address the suspension of the program. To simplify the process, this ordinance amended the City Code to include language that allowed for the implementation of the program, contingent upon the City Council's annual appropriation. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (9) Resolution Authorizing an Agreement between the City and Hampton Roads Sanitation District (HRSD) for Payment Processing

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 AGREEMENT BY AND BETWEEN THE HAMPTON ROADS SANITATION DISTRICT COMMISSION AND THE CITY OF NEWPORT NEWS, VIRGINIA, DATED THE 23RD DAY OF JUNE, 2009. This resolution authorized the City Manager to execute an Agreement between the City and Hampton Roads Sanitation District (HRSD) to collect fees. The City, through its Waterworks, agreed to accept and process payments on behalf of HRSD. HRSD agreed to pay the City, for deposit into the Waterworks Enterprise Fund, the sum of \$50,000 per fiscal year in lieu of providing an HRSD employee at the designated City location. This Agreement was in effect for one (1) year beginning July 1, 2009, and would automatically renew for subsequent one-year periods thereafter, unless one party gave the other written notice of termination. The Agreement could be terminated by either party with a 90-day notice to the other party. The Waterworks Enterprise Fund would receive \$50,000 in revenue from this Agreement. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (10) Resolution Authorizing the City Manager as the City Representative for Compliance with Section 111 of The Medicare, Medicaid, and State Children's Health Insurance Plan Extension Act of 2007 (MMSEA)

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, NAMING THE CITY MANAGER AS THE CITY'S AUTHORIZED REPRESENTATIVE FOR THE PURPOSE OF COMPLYING WITH THE MANDATORY

D. Consent Agenda Continued

- (10) Resolution Authorizing the City Manager as the City Representative for Compliance with Section 111 of The Medicare, Medicaid, and State Children's Health Insurance Plan Extension Act of 2007 (MMSEA)
Continued

REPORTING REQUIREMENTS OF SECTION 111 OF THE MEDICARE, MEDICAID, AND STATE CHILDREN'S HEALTH INSURANCE PLAN EXTENSION ACT OF 2007. This resolution designated the City Manager as the City's authorized representative for Medicare, Medicaid and State Children's Health Insurance Plan (SCHIP) Extension Act of 2007, Section 111 requirements. New regulations had been established regarding the Medicare Secondary Payer Program, to include Responsible Reporting Entities, who provide liability insurance, no fault insurance and worker's compensation insurance. The City is a Medicare secondary payer because it administered both the self-insurance and worker's compensation programs; therefore, it was mandated to name an authorized representative who had legal authority and ultimate accountability for its compliance of the MMSEA, Section 111 requirements. The City Attorney's Office advised that the City Manager must be the authorized representative for the City. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

E. Other City Council Actions

- (1) Resolution Authorizing Middle Ground Boulevard Design-Build Project

A RESOLUTION REQUESTING THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO PROCEED WITH THE EXTENSION OF MIDDLE GROUND BOULEVARD FROM JEFFERSON AVENUE TO WARWICK BOULEVARD AS A DESIGN-BUILD PROJECT. This resolution supported the Virginia Department of Transportation (VDOT) proceeding with the Design-Build Process and authorized the City Manager to execute related City/State Agreements. The City Manager advised Council that the resolution was revised to eliminate any commitment of City monies for this project. VDOT estimated construction completion by 2015, if the City authorized them to proceed with a Design-Build process versus their traditional process of Design-Bid-Build, which estimated construction completion by 2018. VDOT had a \$61 million funding commitment in their draft FY2010-2015 Six-Year Improvement Program slated for this project. No further funding from the City was required to carry out the project.

(No registered speakers)

Councilman Bateman moved adoption of the above resolution as revised; seconded by Vice Mayor Whitaker.

E. Other City Council Actions Continued

(1) Resolution Authorizing Middle Ground Boulevard Design-Build Project Continued

Councilwoman Woodbury stated she was not so much in favor of the project as long as the City had to put up millions of dollars. She further stated it was good news to hear the City was not responsible for any other money for this project, and thus pledged her support.

Mayor Frank read a Declaration in Accordance with Section 2.2-3115 G of the Virginia Code, pursuant to subdivision A.3 of §2.2-3112 of the Virginia Conflict of Interest Act that (i) the City Manager scheduled for consideration by City Council, his recommendation that Council adopt a resolution requesting VDOT proceed with the extension of Middle Ground Boulevard from Jefferson Avenue to Warwick Boulevard as a road improvement project for the benefit of the project. . .; (ii) that he and his wife owned a condominium unit with the address of 12654H Nettles Drive (the real property). . .; (iii) that if VDOT under took the project, their property along with a number of other land owners along Nettles Drive and the proposed route of the project may be purchased and condemned. . .; (iv) that he and his wife were members of a group of owners of real property that may be purchased or condemned for the project. . .; and (v) that he was able to participate in the transaction fairly, objectively, and in the public interest. (A signed copy of this declaration as filed with the City Clerk on June 23, 2009, is attached and made a part of these minutes).

Councilwoman Scott wanted to advise the citizens, since this was a Design-Build project, if there were cost overruns, the City would not be responsible. She stated the City's one investment of \$4 million would be the only investment. Mayor Frank advised that the State was covering the full cost of the project and no funding was required by the City to carry the project forward.

Mayor Frank explained, the State was putting up \$58 million for the project, that had an estimated cost of \$61 million, and the City was asked to contribute \$4 million to make up the difference. When the Commonwealth Transportation Board met the early part of June 2009, they appropriated all \$61 million, meaning the City did not have to come up with additional money.

Councilwoman McMillan stated that she looked forward that the next resolution would be authorizing the Richneck Road project.

Vote on Roll Call:

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

Nays: None

E. Other City Council Actions Continued

- (2) Resolution Authorizing the Governor's Development Opportunity Fund Performance Agreement (GOF Agreement) for the AREVA Newport News Project

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 GOVERNOR'S DEVELOPMENT OPPORTUNITY FUND PERFORMANCE AGREEMENT DATED AS OF THE 1ST DAY OF JUNE, 2009, BY AND AMONG THE CITY OF NEWPORT NEWS, VIRGINIA, THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA, AND AREVA NEWPORT NEWS, LLC. This resolution authorized the Governor's Development Opportunity Fund Performance Agreement (GOF Agreement) for the AREVA Newport News Project. City Council was briefed at its April 28, 2009 Work Session on this important economic development project. The project provided significant job creation, as well as an additional \$363 million in capital investment. The GOF Agreement provided for a \$3 million GOF Grant as part of a State and local incentives package offered to AREVA Newport News and Newport News Energy (the AREVA Project). The EDA Board of Directors authorized the GOF Agreement at its May 1, 2009 Board of Directors meeting. The City Manager recommended approval.

Councilman Bateman moved adoption of the above resolution; seconded by Vice Mayor Whitaker.

Mr. Jim Hicks, representing AREVA, Lynchburg, Virginia, expressed AREVA's delight in coming to Newport News, being a part of Northrop Grumman Newport News to build a new facility at the north end of the shipyard. He reiterated there would be many hundreds of employees and several hundred million dollars in investments. He advised that a Groundbreaking ceremony was scheduled for July 22, 2009. Mr. Hicks further expressed appreciation to Council for its support.

Vote on Roll Call:

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

Nays: None

- (3) Resolution Authorizing the Appropriation of Funds for the Governor's Opportunity Fund Grant for the AREVA Newport News Project

A RESOLUTION APPROPRIATING FUNDS FROM GOVERNOR'S OPPORTUNITY – AREVA (\$3,000,000.00) TO CONTRACTUAL SERVICES (\$3,000,000.00). This resolution authorized the appropriation of the \$3 million Governor's Opportunity Fund (GOF) Grant for the AREVA Newport News Project. City Council was required to authorize acceptance of the \$3 million GOF Grant and appropriate this same amount to the Economic Development Authority (EDA). The EDA would administer the payment of the grant monies to AREVA Newport News to cover site work and training costs. The GOF Agreement provided for the City to act as the grantee for receipt of the grant funds. This grant required a local match of \$1.5 million, which was provided for under Item E4. The City Manager recommended approval.

E. Other City Council Actions Continued

- (3) Resolution Authorizing the Appropriation of Funds for the Governor's Opportunity Fund Grant for the AREVA Newport News Project Continued

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (4) Resolution Approving the Local Incentive Performance Agreement for the AREVA Newport News Project

A RESOLUTION APPROVING THAT CERTAIN LOCAL INCENTIVE PERFORMANCE AGREEMENT DATED AS OF THE 1ST DAY OF JUNE, 2009, BY AND AMONG THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA; AREVA NEWPORT NEWS, LLC; NORTHROP GRUMMAN SHIPBUILDING, INC.; AND NEWPORT NEWS ENERGY, LLC. This resolution approved a local incentive performance Agreement by and between the Economic Development Authority (EDA) of the City, AREVA Newport News, LLC, Northrop Grumman Shipbuilding and Newport News Energy related to the AREVA Newport News project. The Local Incentive Performance Agreement was prepared by the EDA legal counsel and reviewed and provided by the City Attorney's Office. The Council's approval permitted the local incentives and related performance standards to be implemented, contingent on the companies meeting the qualifications criteria. The EDA Board of Directors authorized the Local Incentive Performance Agreement subject to City Council's subsequent approval, and subject to final review and approval of the EDA Legal Counsel. The City Manager recommended approval.

(No registered speakers)

Vice Mayor Whitaker moved adoption of the above resolution; seconded by Councilwoman Vick.

Vote on Roll Call:

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

Nays: None

- (5) Ordinance Amending City Code, Chapter 40, Taxation, §40-191.1, Exemptions; Limits on Application [of Tax on Food and Beverages]

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XI., TAX ON FOOD AND BEVERAGES, SECTION 40-191.1, EXEMPTIONS; LIMITS ON

E. Other City Council Actions Continued

- (5) Ordinance Amending City Code, Chapter 40, Taxation, §40-191.1, Exemptions; Limits on Application [of Tax on Food and Beverages] Continued

APPLICATION. This ordinance amended the City Code, for conformity with the Code of Virginia, regarding the levying of taxes on meals. During the 2009 legislative session, the Virginia General Assembly amended the State Code, Section §58.1-3840, which granted cities and towns the authority to levy a tax on meals. The amendments detailed various types of meals that were exempt from the local tax. This ordinance ensured that the City Code conformed to the enabling provisions of the State Code, as amended during the 2009 General Assembly session.

(No registered speakers)

Vice Mayor Whitaker moved adoption of the above ordinance; seconded by Councilman Bateman.

Vote on Roll Call:

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

Nays: None

- (6) Ordinance Amending City Code, Chapter 40, Taxation, §40-245 through §40-249, Short-Term Rental Property Tax

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XV. DAILY RENTAL PROPERTY TAX, SECTION 40-245, DEFINITIONS; SECTION 40-246, LEVIED; AMOUNT; SECTION 40-247, COLLECTION OF TAX; SECTION 40-248, RENTER'S CERTIFICATE OF REGISTRATION; AND SECTION 40-249, EXEMPTIONS. This ordinance amended provisions of Chapter 40, Taxation, of the City Code, to conform to provisions of the Code of Virginia. The Virginia General Assembly, during its 2009 legislative session, amended the State Code to enact Sections 58.1-3510.4 through 58.1-3510.7, which granted cities and towns the authority to tax tangible personal property held for rental and owned by a person engaged in the short-term rental business. City Code Sections 40-245 through 40-249 addressed the details of taxing short-term rental property and exemptions from this tax. The ordinance amendment ensured that the relevant sections of the City Code were in conformity with the provisions of the Code of Virginia enacted by the General Assembly. The City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

F. Appropriations

Councilwoman McMillan moved adoption of Items 1 and 3, as shown below; seconded by Councilwoman Woodbury.

- (1) Planning Department – Mariners’ Museum SAFTEA-LU High Priority Grant

A RESOLUTION APPROPRIATING FUNDS FROM STATE REVENUE VIRGINIA DEPARTMENT OF TRANSPORTATION USS MONITOR CENTER – FY 2010 (\$53,267.00) TO USS MONITOR CENTER SAFTEA-LU FY 2010 ALLOCATION (\$53,267.00). This resolution appropriated \$53,267.00 of additional funding from the Virginia Department of Transportation for the Mariners’ Museum USS Monitor Center. The Mariners’ Museum received these additional State grant funds that were a match to the federal SAFTEA-LU High Priority Fund allocations received in FY 2007, FY 2008 and FY 2009. The Museum used these funds to reimburse expenditures already made in the construction of the landscaping, lighting, sidewalks, signage and parking lots that supported the USS Monitor Center exhibit. The City’s only role, as sponsor, was limited to the handling of reimbursement transactions from the Virginia Department of Transportation to the Mariners’ Museum. No local match was required. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (3) Newport News Public School District – FY 2009 Capital Improvement Project (CIP) Request

A RESOLUTION APPROPRIATING FUNDS FROM FY 2009 BONDS AUTHORIZED AND ISSUED – SCHOOLS (\$785,207.00) TO FY 2009 SCHOOL DESIGN (\$228,207.00) AND FY 2009 SCHOOL ROOF PROJECTS (\$557,000.00). This resolution appropriated \$785,207.00 from the Fiscal Year 2009 Bonds Authorized and issued for School Division Capital Projects. As part of the need to curtail capital spending, the School Division offered a reduction of \$3.1 million to its FY 2008 CIP funding and \$4.2 million to its FY 2009 CIP funding. Since the FY 2008 CIP was appropriated, the Schools agreed to apply these savings to its remaining FY 2009 CIP request of \$3,885,207.00. The net remaining appropriation available for the Schools FY 2009 CIP was \$785,207.00. This appropriation would be used to fund design costs and roof replacements at Riverside, Sedgefield, Hilton, and Watkins Elementary Schools. Funding for these projects was programmed in the FY 2009 Fiscally Constrained Capital Improvements Plan. The Bond Authorization that allowed appropriations from the approved CIP was \$30 million, of which \$4,340,000.00 was designated for Schools. Approval of this resolution along with the reductions of \$3.1 million, completed the remaining appropriations available to the School Division. The City Manager recommended approval.

(No registered speakers)

F. Appropriations Continued

Vote on Roll Call:

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

Nays: None

Councilman Bateman moved adoption of Item 2, as shown below; seconded by Councilwoman Vick.

(2) Sheriff's Office – Resolution Appropriating Asset Forfeiture Funds

A RESOLUTION APPROPRIATING FUNDS FROM STATE FORFEITURE (\$8,924.00) TO SPECIALIZED POLICE SUPPLIES (\$8,924.00). This resolution appropriated \$8,924.00 of State Revenue from the Virginia Department of Criminal Justice Services (DCJS) to the Sheriff's Office. DCJS awarded the Sheriff's Office asset forfeiture monies in the amount of \$8,924.00. In July 2008, the Sheriff's Office provided special assistance in a traffic stop that resulted in the seizure of \$62,000 of drug money. The Code of Virginia and regulations adopted by the Board of DCJS, restricted the use of these forfeited funds to the promotion of law enforcement, but may be used to supplant existing programs or funds. These funds would be used to purchase canine training equipment and protective vests for Court Security, Transportation and Civil Enforcement Deputies. No local funds were required. The City Manager recommended approval.

(No registered speakers)

Councilwoman Woodbury inquired about the money being appropriated for the purchase of canine training equipment for the Sheriff's Department. She did not have a problem with the protective vests. She questioned the need for a canine unit in the Sheriff's Department since the Police Department also had a canine unit.

City Manager Hildebrandt advised that the Sheriff's Department had developed a canine unit. Justification given by the Sheriff was that Police Department's canine unit was not always readily available; particularly those used for the sniffing of bombs; and by having his own canine unit, the Sheriff would be able to clear the courthouse quickly. It was also used for related matters dealing with courthouse security.

Councilwoman Woodbury saw this as a duplication of effort. She wondered whether the Sheriff's Department was trying to take over the Police Department's job and expressed concern. City Manager Hildebrandt reiterated that the Sheriff's Department only used their canine unit for work within the jail and the courthouse facilities. Mayor Frank added that bomb threats at the courthouse were not infrequent.

Vote on Roll Call:

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

Nays: Woodbury

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

Mr. Milton E. Lyon, 216 Milstead Road, Newport News, announced that the historic, 123 year-old Lee Hall Depot would be moved the week of June 22, 2009, and would begin its second life as a museum. He stated this relocation was the culmination of an intense and drawn-out period of negotiation by the City of Newport News and its various staffs, with CSX Corporation, VDOT, and various other State agencies. He stated the prime contractor for this immense project was the Newport News-based Phoenix Corporation. Working closely with the Phoenix Corporation was the Expert House-movers of Virginia Beach. Mr. Lyon stressed that the firms had immense difficulties as they began the project eight weeks prior, i.e. termite damage, moisture damage, and vandalism. In celebration of the move, the Friends of the Lee Hall Depot Foundation, would sponsor an all-paid event, featuring several dignitaries, several guest speakers, a band, and a display with scaled models of locomotives from his personal collection.

Councilwoman McMillan thanked Mr. Lyon for his continued interest. She indicated this had been a 10-year effort, and through this, the Friends of the Lee Hall Depot struggled to try to maintain public interest, and Mr. John Quarstein was instrumental in obtaining grant funding. She advised that the entire project to move the Depot and make it an historic entity at the entrance/gateway to the City, was funded with grant monies. It had been citizens, like Mr. Lyon, who had worked hard and been dedicated. She expressed her thanks to all participants. She announced that portions of the Depot would be moved on June 24 - 25, 2009, between noon and 2:00 p.m.

Ms. Carol Hogge, 3 Gay Drive, Newport News, addressed Council regarding the Deep Creek Pier. She advised a resolution of 1959, stated the Deep Creek Pier would remain until it had served its usefulness. She further advised that many other documents referred to the maintenance of the Pier and the transfer of the Pier to the City of Newport News in 1983. The Pier, being the responsibility of the City, evidently lost its usefulness when it became a liability due to lack of maintenance and a reduced number of users. Part of the Pier was blocked off, with a sign that stated "closed for construction." Ms. Hogge stated that new construction never occurred. On the Menchville side, fishermen were fishing over the watermen's boats in the docks, running batteries down. She advised there was a public access on the Deep Creek side that was not being used. Ms. Hogge advocated for the replacement of the Deep Creek Pier.

Dr. Angela Herring, 11 Digges Drive, Newport News, commented on the Newport News School (NNPS) Board attorney issue. She advised that City Council reduced funding from the NNPS budget by \$100,000 as a veto of School Board approved pay for Mr. Len Wallin. As a retired lawyer, Mr. Wallin's position was among City budget cuts. The NNPS "found" \$100,000 to restore the \$100,000 cut from the school budget by City Council. Dr. Herring stated she would rather see the money spent on school-based substitutes, which were cut from the budget. She posed the following questions: (1) Why does the NNPS not hire Mr. Wallin directly? (2) Why was the NNPS paying the City \$100,000 so the City Attorney could keep Mr. Wallin, a retired attorney on staff, and appoint him to the school board? (3) Is the City Attorney responsible to the City Council or the City Manager? Can anyone make an offer to keep a City employee that was facing a job cut employed if the money were found to fund the position? Dr. Herring asked City Council to seek the answers from the City Attorney. (A copy of Dr. Herring's remarks are attached and made a part of these minutes).

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

Councilwoman McMillan indicated the School Board attorney issue was also brought to her attention. From her perspective, she indicated the public teachers and citizens objected to this \$100,000 expenditure, and were ignored. They approached members of City Council who specifically removed \$100,000 from the School's budget to support the constituents who objected to this expenditure. City Council gave direction that they did not want a specific attorney being hired with the \$100,000 that the constituency objected to. Councilwoman McMillan indicated that she had read the City Charter, which stated the City Attorney was to supply legal services to the School Board, and he had publicly stated he could, without hiring this particular individual. Councilwoman McMillan indicated she researched the Code of Virginia and the City Charter, and found nothing that indicated the School system, if they wished to take accountability for that expenditure, that their constituency could not independently hire this attorney. She personally felt, if that was what the School Board intended, they should do so and should not have involved the City.

Mr. Mike Minarik, 114 Linbrook Drive, Newport News, addressed City Council after laboring through Work Session minutes. He questioned whether members of City Council had adequate time to consider all of the issues prior to voting. He requested that Council Work Sessions be recorded. Regarding the housing market, he stated that houses were beginning to sell. The median income in Newport News was below the national average and 15% of the citizens were in the poverty level, which led to his concern about all of mixed-use development projects being considered by the City. He inquired what it would take to make a mixed-use community sustainable. Mr. Minarik questioned when the City would stop supporting mixed-use developments with public funds. He stated they should be self-sustaining. He questioned the EDA's involvement with the Quaker Steak and Lube coming to Newport News. This restaurant was an example of private enterprise, seeing an opportunity, taking initiative, coming in, and being successful. Mr. Minarik suggested the City stop trying to make things they were not. Newport News was a working blue-collar City and could not be changed.

H. New Business and Councilmember Comments

Councilman McMillan commended Sabastian Velilla, Security Division Administrator, for directing the "All City Review," held at the Downing-Gross Cultural Arts Center on June 19, 2009, consisting of City employees, Newport News Public School employees, City residents, and shipyard employees. She indicated it was professionally done and was a treat. She congratulated the participants and suggested it be taken on the road.

Councilwoman McMillan congratulated Dr. Woodbury and her husband Gerard, on the celebration of their 50th Wedding Anniversary.

Councilwoman Scott thanked citizens for their attendance at the June 22, 2009 North District Town Hall Meeting. She indicated the televising of Council Work Sessions was a big item of discussion. She asked the City Manager for an explanation.

City Manager Hildebrandt responded, if Work Sessions were televised, they would need to be relocated to accommodate the meeting and number in attendance.

H. New Business and Councilmember Comments Continued

Councilwoman Scott inquired about the influx of strip malls in the North District and the remedy for such.

City Manager Hildebrandt advised that the property, not yet developed, must be rezoned to something other than Retail Commercial so that developers could not, by right built retail centers. The zoning ordinance, generally in the City had been to zone most of the corridor of Jefferson Avenue and Warwick Boulevard Commercial so that commercial businesses could locate. A comprehensive change in zoning would be required. He indicated this issue could be revisited. It was agreed that it would be better to concentrate these retail centers in one larger center as opposed to being spread out along the major thoroughfares. It would take a major change in the zoning ordinances and would only affect those that had not been built. Most are there by right and had been grandfathered.

Councilwoman Scott indicated that the discussion had arose about having a moratorium and until that time, there could be an evaluation to determine whether the area was over saturated with strip malls. It was hoped to find uses for the many already in the area. She suggested that the matter be reevaluated; and perhaps ask the IDA/EDA to look for uses for some of the shopping centers in the North District.

The portions being developed now were the only portions that the owner was allowed to build on, which was the reason there were small developments in that particular portion of Jefferson Avenue.

Councilwoman Scott announced the initiative, "Feeding Future Leaders," a summer lunch program for children, up to 18 years of age. Feeding Future Leaders was partnering with "Kids Eat Free" a non-profit organization. The program began June 18, 2009 and would run through September 4, 2009. She indicated the program relied on various community and recreation centers, churches and restaurants across the City who had agreed to participate and had a choice of serving breakfast, lunch, or dinner. Councilwoman Woodbury asked that the information be added to the Newport News television station.

Councilwoman Scott invited everyone to an International Breakfast sponsored by Sister Cities' of Newport News, Inc., June 24, 2009, 8:00 – 9:00 a.m., at the Omni Newport News Hotel. The event was being held in an effort to raise funds for the program.

Councilwoman Scott announced a "Strengthening Families" program at First Baptist Church Denbigh, July 7, 5:30 p.m., in partnership with the Hampton-Newport News Community Services Board.

Councilwoman Vick acknowledged Reverend Floyd Blackwell, Pastor of Miracle Temple Baptist Church.

Councilwoman Vick commended Officer Donald Greathouse and Captain Lorenzo Sheppard of the Newport News Police Department for their informative panel discussion during the June 4, 2009 South District Town Hall Meeting at the Downing Gross Cultural Arts Center, sponsored by the Newport News Police Department.

H. New Business and Councilmember Comments Continued

Councilwoman Vick reiterated the Summer Jobs Program available through the President's Economic Stimulus Package, to low-income youth, ages 14- 24. She indicated applications were available at any of the Newport News Public Libraries.

Vice Mayor Whitaker conveyed that no City funds were used for the South District Town Hall Meeting.

Councilwoman Woodbury commented about Career Day, held at Newsome Park Elementary School, with Deputy City Manager Neil Morgan.

Councilwoman Woodbury commented on the dedication ceremony of the Conservation Garden at the Virginia Living Museum.

Councilwoman Woodbury conveyed her delight about the AREVA project. She advised that the French Consulate Office had offered their services to assist with getting adjusted to the Newport News community, which was not taken advantage of. She indicated the City should be made aware of available opportunities and to act upon those opportunities to create programs and opportunities for Newport News citizens.

Councilwoman Woodbury concurred with Mr. Minarik's comments that City Council Work Sessions should be televised. She indicated the City should try to work with citizens on their requests, to include the replacement of the Deep Creek Pier.

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 8:36 P.M.

Mabel Washington Jenkins, CMC
City Clerk

Joe S. Frank
Mayor
Presiding Officer

A true copy, teste:

City Clerk