

**MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
September 8, 2009
7:30 P.M.**

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

ABSENT: None-----0

A. Invocation

The invocation was rendered by Father George Chioros, St. Constantine & Helen Greek Orthodox 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 Tina L. Vick.

C. Public Hearings

- (1) Change of Zoning, Kingsway Management Company, LLC., CZ-09-266 to R9 Mixed-Use District with Amended Proffers

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 2.60 acres, located at 501 Kingsway Drive, from R9 Mixed-Use, with proffers, to R9 Mixed-Use, with revised proffers. The revised proffers increased the number of proposed apartment units from 36 to 48 units, and replaced retail space with office space and live/work units. The revised proffers allowed the applicant to redesign the proposed apartment building to accommodate larger three-bedroom and live/work units. It provided enclosed garages for some of the residential units and landscaped "green screen" along the site's eastern boundary, with Fazoli's Restaurant. A "green screen" is a lattice-type structure which enables plant material to cover it, providing a more attractive barrier between different uses. The Planning Commission voted unanimously 8:0 to recommend to City Council the approval of the change of zoning, with revised proffers. The Acting City Manager recommended approval.

The Honorable Thomas K. Norment, Jr., 139 Warehams Point, Williamsburg, representing the applicant and owner, Kingsway Management Company, LLC, expressed appreciation for the help and cooperation from the Department of Planning. He stated there were several references to the improvement of this application. He and his team were available to answer questions.

C. Public Hearings Continued

- (1) Change of Zoning, Kingsway Management Company, LLC., CZ-09-266 to R9 Mixed-Use District with Amended Proffers Continued

Councilman Bateman filed a Declaration, pursuant to subdivision A3 of §3.3-3112 of the Virginia Conflict of Interest Act that (i) the Acting City Manager had recommended that the Newport News City Council adopt an ordinance pursuant to the petition of Kingsway Management Company, LLC to change the zoning of real property located at 501 Kingsway Drive, Newport News, Virginia (the "transaction"); (ii) that he was an employee of TowneBank and Kingsway was a client of the bank; however he did not personally represent or provide services to Kingsway; (iii) that he had no personal interest affected by the transaction; and (iv) that he was able to participate in the transaction fairly, objectively, and in the public interest (a copy of the Declaration in Accord with Section 2.2-3115H of the Virginia Code is attached and made of part of these minutes).

Councilwoman McMillan referenced Proffer #10 which stated the residential dwelling units were to be leased or sold as condominium units at market rates. She inquired about a certain ratio of leased units to protect those who purchased the units as condominiums. Senator Norment replied no ratio had been set to his knowledge. He indicated evolving market conditions was one of the factors that led to the request for rezoning. There would be an overlay of some declarations that would provide some protection.

Councilwoman McMillan wanted to avoid a situation where individuals who purchased the condominiums, later found out the units could not be sold because they could not get a loan from a bank because of the ratio of ownership to rental.

Senator Norment advised that he had received notice that there had been a pronouncement dealing with the financing of the condominium projects and how the rules and regulations were being changed before funding was provided.

Mayor Frank clarified that Councilwoman McMillan was inquiring about a proffer that suggested a limited number of units could be leased by the owner, even though it was an individual condominium owner that bought it, and the remainder had to be owner-occupied. He inquired whether such a proffer could be requested. City Attorney Katz advised if the item was deferred, the applicant could make an amended proffer, but the proffer must be filed prior to the start of the meeting, which was a mandate of State law.

Mayor Frank questioned whether it would suffice if the applicant would address the issue, and have some limitation on the number of units that could be leased. Councilwoman McMillan responded that would suffice. She stated the project was a very good project, but the City had dealt with a number of these situations over the years. She wanted to be assured the City was not creating an adversarial situation between homeowners and lessees.

Senator Norment, upon conferring with his partners, stated they would be happy to proffer a minimum ratio to provide a greater degree of comfort.

C. Public Hearings Continued

- (1) Change of Zoning, Kingsway Management Company, LLC., CZ-09-266 to R9 Mixed-Use District with Amended Proffers Continued

Councilwoman Scott was unsure how a guarantee could be made. Councilwoman McMillan replied she was asking for a number of units that would be leased.

Senator Norment indicated his client was prepared to commit to a minimum number that would be leased. Mayor Frank stated all of the units would be built and organized as condominium units. He inquired, after being organized as condominiums under the Virginia Act, how many of the units would be permitted, over time, to be rental units as opposed to owner-occupied units. Mayor Frank explained, if there were a handful of owners, and over time, an overwhelming majority rented those units, the makeup and character of the project would change. The City needed an assurance that the vast majority of the units were condominium units that were owner-occupied.

Senator Norment stated the preference would be to lease as many as possible, but based on market conditions; there was no way of knowing what would be dictated. He was prepared to offer a minimum number to be leased; but did not want to get into a situation where he was proffering the maximum number. Councilwoman Scott inquired whether there was a minimum percentage. Senator Norment did not have a minimum and had not considered a ratio.

City Attorney Katz suggested, since the meeting had begun, and the proffers could not be modified, the item be deferred to the September 22, 2009 or October 13, 2009 Regular Meeting of City Council, allowing further discussion by the staff and the developer; and if there was an amended proffer statement, it could be submitted to City Council for review.

Senator Norment felt September 22, 2009 would suffice.

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

Vote on Roll Call:

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

Nays: None

Councilwoman Scott moved to defer this item to the September 22, 2009 Regular Meeting of City Council; seconded by Councilman Bateman.

Vote on Roll Call:

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

Nays: None

C. Public Hearings Continued

(2) Resolution Adopting the Jefferson Avenue Corridor Study

A RESOLUTION ADOPTING THE JEFFERSON AVENUE CORRIDOR STUDY IN FURTHERANCE OF THE GOALS AND POLICIES OF THE CITY'S COMPREHENSIVE PLAN. This resolution adopted the Jefferson Avenue Corridor Study, as an element of the Framework for the Future 2030. The Jefferson Avenue Corridor Study, as recommended by the Framework for the Future 2030, was developed by the consultant firm Chan Krieger Sieniewicz. The Study developed a vision for the portion of Jefferson Avenue, located between 25th and 36th Streets, and identified improvements to the streetscape. The Study prescribes guidelines for future redevelopment within the corridor. The Planning Commission voted unanimously 8:0 to recommend to City Council the adoption of the Study. The Acting City Manager recommended approval.

Ms. Gloria Deloatch, 700 Water Front Circle, Newport News, welcomed Acting City Manager Neil Morgan, and commended him for his willingness to work with the public and City Council to get things accomplished. She applauded the female members of Council for having a strong backbone and speaking out on issues. Ms. Deloatch wished Mayor Frank much happiness in his retirement, but asked to see a Southeast Plan before he left office. She suggested that action be taken, rather than continue with meetings. It was her hope that City Council would work together and move forward.

Mr. Phil Bomersheim, 311 Chesapeake Avenue, Newport News, urged City Council to approve the Jefferson Avenue Corridor Study. He indicated the plan was good for the City; it leveled the Commerce Center, and accelerated the work of Ms. Florence Kingston, Director, Department of Development, and the ability to do that work. Mr. Bomersheim stated the Jefferson Avenue Corridor Study was the first priority in the Southeast Plan that Council was briefed on, and started the ball rolling in the Southeast Community.

Dr. Sandra Cherry, 646 30th Street, Newport News, represented the Downtown Newport News Merchants and Neighbors Association, and as Chair of the Planning District I Task Force. She urged City Council to adopt the Jefferson Avenue Corridor Study plan, which was long overdue. She indicated there were many great things happening in other areas of the City and the Southeast Community wanted to see that same progress. She indicated the Southeast Community had been neglected long enough. A product of the Southeast Community, Dr. Cherry reiterated the need for City Council to adopt this plan allowing the residents to move forward in the Southeast Community. This was only Phase I of the many things needing to be done in the Southeast Community. She further concurred with a remark made by Councilwoman Sharon Scott at a previous meeting about not wanting a paradigm shift. Dr. Cherry stated she did not want some of the negative things that had happened in the Southeast Community to invade the other parts of the City. She indicated that Newport News did not start at City Center, but at the waterfront.

Councilwoman McMillan felt the Jefferson Avenue Corridor Study was an excellent plan, indicating it was exciting when originally presented. She stated the movement of the overhead utilities was key to the aesthetics and revitalization of the area. She congratulated

C. Public Hearings Continued

(2) Resolution Adopting the Jefferson Avenue Corridor Study Continued

the residents on their interest and hoped to proceed quickly to get things done.

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

Vote on Roll Call:

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

Nays: None

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

Vice Mayor Whitaker shared his personal stories about the Southeast Community, indicating that he, too, had lived in Harbor Homes; and played a role in the building of the first low-income housing in the City of Newport News. He stated there were great programs set up to assist the residents of the Southeast Community

Vote on Roll Call:

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

Nays: None

Councilwoman Vick inquired about the possibility of the City qualifying for federal stimulus money to locate and/or relocate the overhead and underground utilities as the City sought other alternatives. Acting City Manager Morgan responded that he did not feel this was the way to go. He anticipated having a Council Work Session with specific recommendations regarding how to proceed with some of the implementation steps in the plan. He would recommend getting the engineering work started on the utilities.

Councilwoman Scott also expressed excitement about the project. She inquired about discussions for creative financing to fund these projects. Acting City Manager Morgan replied that relocating utility lines could be an expensive proposition, but the staff believed it was critical to many of the other private investments to be leveraged. He stated there had been discussion about how the utility portion of these projects would be funded and the options included direct City dollars, some participation by Dominion Virginia Power, and possibly some participation by developers. He indicated there was no minimizing the fact that this would be a significant investment.

(3) Ordinance Authorizing Real Property Tax Exemption – Housing Development Corporation of Hampton Roads

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I., GENERAL PROVISIONS AND EXEMPTIONS, DIVISION 3., PROPERTY EXEMPTED BY DESIGNATION, BY ADDING THERETO A NEW SECTION, NAMELY: SECTION 40-8.07,

C. Public Hearings Continued

(3) Ordinance Authorizing Real Property Tax Exemption – Housing Development Corporation of Hampton Roads Continued

PROPERTY OF HOUSING DEVELOPMENT CORPORATION OF HAMPTON ROADS. This ordinance amended Chapter 40, Taxation, Article I, General Provisions and Exemptions, Division 3, Property Exempted By Designation, by adding Section 40-8.07, Property of Housing Development Corporation of Hampton Roads, Inc. The Housing Development Corporation of Hampton Roads, Inc., a non-profit corporation, requested tax-exempt status for real property located at 6 Azalea Drive. The property consisted of a 1,152 square-foot brick, ranch-style house on 0.26 acres and used exclusively for charitable and benevolent purposes on a non-profit basis. The 2009-2010 assessment was \$174,100 and the annual tax was \$1,915.10. The property was rented, with rental fees paid by LINK of Hampton Roads. Based on staff's review, it met the legal requirements to be considered for real estate tax-exempt status. The Acting City Manager recommended approval.

Mr. Paul Garman, 109 Chismans Point, Yorktown, a member of the Housing Development Corporation of Hampton Roads, a 501(c)(3) organization formed by LINK when the realization was made that agencies such as LINK were not legally allowed to own the property in which they place their clients. He advised that the Housing Development Corporation owned 20 units of housing, 18 of which were in Hampton, 2 in Newport News. The house located at 6 Azalea Drive was the focus of this application. Mr. Garman explained that funding for the purchase of housing came from VHDA, who provided the mortgage loan. The rent came from the service agency that secured and supervised the tenant. Repairs and maintenance were covered by grants and volunteer help. The house at 6 Azalea Drive was assessed by the City at \$174,100, and was sold to the Housing Development Corporation for \$125,000. An extensive list of improvements had been made, including a new roof, thermal windows, bathroom, and other general refurbishments. Mr. Garman advised the house was occupied by a mother and five children, who were homeless. He indicated the Housing Development Corporation of Hampton Roads was saving more for the community than the cost of the taxes.

Mr. Garman and Sister David Ann Niski were available to answer questions.

Councilwoman Vick thanked Mr. Garman and Sister David Ann for their efforts to help the City eliminate homelessness.

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

Vote on Roll Call:

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

Nays: None

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

C. Public Hearings Continued

- (3) Ordinance Authorizing Real Property Tax Exemption – Housing Development Corporation of Hampton Roads Continued

Vote on Roll Call:

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

Nays: None

- (4) Ordinance Authorizing Real Property Tax Exemption – Christian Village of Eastern Virginia, Inc.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I., GENERAL PROVISIONS AND EXEMPTIONS, DIVISION 3., PROPERTY EXEMPTED BY DESIGNATION, BY ADDING THERETO A NEW SECTION, NAMELY: SECTION 40-8.08, PROPERTY OF CHRISTIAN VILLAGE OF EASTERN VIRGINIA, INC. This ordinance amended Chapter 40, Taxation, Article I, General Provisions and Exemptions, Division 3, Property Exempted By Designation, by adding Section 40-8.08, Property of Christian Village of Eastern Virginia, Inc. Christian Village of Eastern Virginia, Inc., requested tax exempt status for real property located at 38 Forrest Drive. The property consisted of a 43-unit apartment complex, on 3.01 acres, and used exclusively for charitable and benevolent purposes on a non-profit basis. The 2009-2010 Assessment was \$1,594,100 and the annual tax was \$16,126. The property was a U. S. Department of Housing and Urban Development project, which received the benefit of capital advances and project rental assistance under Section 202. Based on staff's review, it met the legal requirements to be considered for real estate tax-exempt status. Mayor Frank advised that the Acting City Manager had requested a deferral of this item until the October 13, 2009 Regular Meeting of City Council.

Mr. Adrian Dekker, Director of Property Tax, Ryan, Inc., 3344 Peachtree Road, Ste. 1000, Atlanta, GA, representing the management company that was involved with Christian Village, was available to answer questions.

Acting City Manager Neil Morgan advised that this matter was scheduled for a public hearing, and while the application met all of the tests for consideration by City Council, he would like an opportunity to meet with Mr. Dekker's clients and to get an understanding of how many multiple family complexes in the City of Newport News might be eligible. He advised the City could not get into a situation where everyone started figuring out how not to pay taxes in large apartment complexes. He had not had an opportunity to understand what was unique about the Christian Village project. He would come back with a recommendation for the October 13, 2009 Council Meeting.

Councilwoman McMillan moved closure of the public hearing; seconded by Vice Mayor Whitaker.

Vote on Roll Call:

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

Nays: None

C. Public Hearings Continued

- (4) Ordinance Authorizing Real Property Tax Exemption – Christian Village of Eastern Virginia, Inc. Continued

Councilwoman McMillan moved to defer this item to the October 13, 2009 Regular Meeting of City Council; seconded by Councilwoman Vick.

Vote on Roll Call:

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

Nays: None

- (5) Ordinance Authorizing Real Property Tax Exemption – Peninsula Pastoral Counseling Center, Inc.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I., GENERAL PROVISIONS AND EXEMPTIONS, DIVISION 3., PROPERTY EXEMPTED BY DESIGNATION, BY ADDING THERETO A NEW SECTION, NAMELY: SECTION 40-8.06, PROPERTY OF PENINSULA PASTORAL COUNSELING CENTER, INC. This ordinance amended Chapter 40, Taxation, Article I, General Provisions and Exemptions, Division 3, Property Exempted By Designation, by adding Section 40-8.06, Property of Peninsula Pastoral Counseling Center, Inc. The Pastoral Counseling Center, Inc. requested tax exempt status for real property located at 707 Gum Rock Court. The property consisted of a 4,056 square-foot office facility, with 17,344 square feet of parking space, and was used exclusively for charitable and benevolent purposes on a non-profit basis. The 2009-2010 Assessment was \$397,000, and the annual bill was \$3,921.50. The office was used to provide pastoral counseling, consultation and education. Based on staff's review, it met the legal requirements to be considered for real estate tax-exempt status. The Acting City Manager recommended approval.

Pastor Carl Jensen, Executive Director, Peninsula Pastoral Counseling Center, Inc., 707 Gum Rock Court, Newport News, acknowledged members of the Board. Pastor Jensen distributed documents containing the Center's mission, and facts about the Center (a copy is attached and made a part of these minutes). The Center had served since 1973 as a 501(c)(3) corporation, providing pastoral counseling in a faith context, and served all who could benefit regardless of their ability to pay or their personal religious beliefs. Through August 2009, the Center provided over \$69,000 in client aid and expected to provide \$104,000 in aid by year-end. The tax abatement would help to serve the community more effectively.

Councilwoman McMillan inquired whether this entity, or any entity that received tax exempt status, rent out up to 10% of a dwelling to a non-commercial or business entity, without losing the tax-exempt status. City Attorney Katz responded, the way this tax exemption was structured was to assist 501(c)(3) or other non-profit charitably oriented entities. He suggested that City Council not grant the tax relief, if they felt that a 10% threshold got them beyond the charitable stage. Councilwoman McMillan indicated, the building, as it was, was used totally for charitable entities; but under the law, she inquired whether there was a certain percentage that could be leased out to a non-charitable entity, yet still retain tax exempt status. City Attorney Katz replied, no, the entity would then lose its character as a charitable non-profit.

C. Public Hearings Continued

- (5) Ordinance Authorizing Real Property Tax Exemption – Peninsula Pastoral Counseling Center, Inc. Continued

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

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

- (6) Ordinance Granting Utility Easement – 15198 Warwick Boulevard (Stoney Run Recreation Center)

AN ORDINANCE AUTHORIZING AND DIRECTING THE ACTING CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION VIRGINIA POWER, DATED THE 8TH DAY OF SEPTEMBER, 2009, FOR THE STONEY RUN RECREATION CENTER. This ordinance granted a utility easement to Virginia Electric and Power Company, D/B/A Dominion Virginia Power, over City-owned property at 15198 Warwick Boulevard. A request to receive bids was advertised in the Daily Press on July 27, 2009 and August 3, 2009. City Council received one bid for this easement at its August 11, 2009 meeting. This easement was needed to finalize the recorded plat for underground conduits and cables for the relocation of electrical service at the new Stoney Run Recreation Center. The Acting City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

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

C. Public Hearings Continued

- (6) Ordinance Granting Utility Easement – 15198 Warwick Boulevard
(Stoney Run Recreation Center) Continued

Vote on Roll Call:

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

Nays: None

- (7) Ordinance Authorizing the Acquisition of Real Property located at 494
and 496 Richneck Road

AN ORDINANCE AUTHORIZING THE ACTING CITY MANAGER TO MAKE OFFERS TO PURCHASE CERTAIN REAL PROPERTY HEREINAFTER MORE PARTICULARLY DESCRIBED, SITUATE, LYING AND BEING IN THE CITY OF NEWPORT NEWS, VIRGINIA, FOR THE RICHNECK ROAD AREA REGIONAL BMP PROJECT, TO PROVIDE FUNDS FOR THESE PURPOSES, AND AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST ALL DOCUMENTS NECESSARY TO EFFECT THE PURCHASE AUTHORIZED HEREIN. This ordinance authorized the acquisition, or condemnation, if necessary, of +/- 4.99 acres from 494 Richneck Road and +/- 2.83 acres from 496 Richneck Road, for the proposed Richneck Road Area Regional Water Quality Basin Project. To reduce the effects of flooding within the Stoney Run watershed, the construction of a retention basin in the Richneck Road area was promoted to increase system storage capacity and facilitate flow. The proposed regional water quality basin project would receive run-off from approximately 260 acres of land, and the proposed project design was to accommodate the pollutant loads created from future run-off of the entire area. The acquisition of significant, undeveloped flood-plain restricted portions of the properties identified as 494 Richneck Road and 496 Richneck Road was required in order to construct the proposed regional stormwater retention basin as designed. Funding was available from previous appropriations within the Stormwater Management category in the CIP. The Acting City Manager recommended approval.

Melissa and Butch Dicks, 476 Richneck Road, Newport News, inquired who would pay for the construction of the BMP.

Councilwoman McMillan responded the City would pay for the project.

Ms. Dicks inquired about the total cost for the project.

Acting City Manager Morgan replied this would be a very significant investment, guessing \$1-\$2 million. He stated the final design had been completed. City Attorney Katz advised that the first step was to acquire the property. Mayor Frank added a final design would be needed. Once complete, staff would have a better idea of the cost.

Mayor Frank explained the City had a stormwater management fund that citizens paid into for improvement of the stormwater system, which was often used to borrow money. There was a State Fund which the City could also borrow from at low interest rates, which was the normal vehicle used.

C. Public Hearings Continued

- (7) Ordinance Authorizing the Acquisition of Real Property located at 494 and 496 Richneck Road Continued

Ms. Dicks inquired whether this would be paid for by a developer.

Mayor Frank responded no, this area was pretty much fully developed. Acting City Manager Morgan stated there were five projects in the Stoney Run Basin, and recalled that one of the drainage projects was through the Huntington Pointe re-zoning, and included a proffer that stated the developer would contribute to the City's cost of the project. The City would pay, but receive some payment as part of this basin. There would be development participation at some point.

Ms. Dicks inquired about the City's plans for 476 and 472 Richneck Road. She questioned how this BMP project would affect their home. Acting City Manager Morgan stated the Richneck Road widening project and the general downstream conveyance from this BMP would affect the Dick's property; although this BMP was upstream from the Dick's property and basically, would retain water. The conveyance of the ditch, or pipe that would go from this BMP through the Dick's property, under Richneck Road, would ultimately all be part of one upgraded drainage system.

Ms. Dicks inquired whether this was one project or two separate projects. Mayor Frank suggested that Ms. Dicks meet with Mr. Brian Lewis, Senior Engineer, Department of Engineering, who could explain the project in detail. Acting City Manager Morgan indicated that the Stoney Run Basin Drainage Improvement Project included five different improvements, and were all different tributaries of Stoney Run Creek, that would ultimately tie into improved conveyance under widened Richneck Road and through widened Jefferson Avenue. He further indicated that the project was being managed and designed and constructed in separate, stand alone components.

Councilwoman McMillan recalled that Mr. & Mrs. Dicks had expressed concerns over the drainage issue, drainage project, Richneck Road project, and the right-of-way on their property, and how their property would be affected by this project. Councilwoman McMillan expressed her understanding that the stormwater basins, which would not be near the Dick's property, would actually help the drainage further down toward the Dick's and Mrs. Artis' properties, and that there would not be a negative impact. She concurred with Mayor Frank and suggested that the Dicks meet with Mr. Lewis. She indicated that City Council did not have the details, but were prepared to vote on the land acquisition. Ms. Dicks questioned how City Council could vote to condemn land without having the total details. Councilwoman McMillan explained that Council was not condemning land, but was trying to obtain the property for the project. She stated that condemnation was not always a negative process.

Councilwoman Scott announced there was a meeting scheduled for September 15, 2009, 7:00 p.m., at Richneck Elementary School. Staff would be present and could provide additional information.

C. Public Hearings Continued

- (7) Ordinance Authorizing the Acquisition of Real Property located at 494 and 496 Richneck Road Continued

Ms. Dicks stated she was hesitant to attend the meeting as she had previously, and was skeptical whether they would receive correct information.

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

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

- (8) Ordinance Authorizing the Issuance of General Obligation General Improvement Bonds for \$5,720,000 to Secure a Loan from the Virginia Water Facilities Revolving Loan Fund

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED FIVE MILLION SEVEN HUNDRED TWENTY THOUSAND DOLLARS (\$5,720,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATIONS OF THE CITY OF NEWPORT NEWS, VIRGINIA, IN THE FORM OF GENERAL OBLIGATION GENERAL IMPROVEMENT BONDS OF THE CITY OF NEWPORT NEWS, VIRGINIA, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF CAPITAL IMPROVEMENT PROJECTS OF AND FOR THE CITY, INCLUDING, WITHOUT LIMITATION, SEWER REHABILITATION PROJECTS AND OTHER CAPITAL IMPROVEMENTS TO THE WASTEWATER TREATMENT AND SANITARY SEWER SYSTEM OWNED AND OPERATED BY SUCH CITY; APPROVING THE FORM OF SUCH BONDS AND DELEGATING TO THE CITY MANAGER OR ACTING CITY MANAGER AUTHORITY TO APPROVE CERTAIN DETAILS OF SUCH BONDS; APPOINTING THE CITY TREASURER AS REGISTRAR AND PAYING AGENT FOR SUCH BONDS; PROVIDING FOR THE ISSUANCE OF SUCH BONDS TO THE VIRGINIA RESOURCES AUTHORITY, AS ADMINISTRATOR OF THE VIRGINIA WATER FACILITIES REVOLVING FUND, TO EVIDENCE THE BORROWING TO BE MADE BY SUCH CITY FROM SUCH FUND PURSUANT TO A FINANCING AGREEMENT BY AND BETWEEN SUCH AUTHORITY AND SUCH CITY; AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF SUCH FINANCING AGREEMENT AND THE TAX COMPLIANCE AGREEMENT REFERRED TO THEREIN. This ordinance authorized the issuance of General Obligation Bonds, in a principal amount not to exceed \$5,720,000, to secure a loan from the Virginia Water Facilities Revolving Loan Fund, to finance various capital improvement projects

C. Public Hearings Continued

- (8) Ordinance Authorizing the Issuance of General Obligation General Improvement Bonds for \$5,720,000 to Secure a Loan from the Virginia Water Facilities Revolving Loan Fund Continued

(CIP) in support of the City's 2009 Sanitary Sewer Program. The loan proceeds would be used to finance the costs of the sewer rehabilitation projects and other improvements to the City's wastewater treatment and sanitary sewer system. The Virginia Resources Authority (VRA) approved the City for the \$5,200,000 loan. The not-to-exceed amount, represented an additional 10% allowed under program regulations, in the event of increased bid prices for the approved projects. The debt service for this financing was funded from the City's Wastewater Fund. The Acting City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

D. Consent Agenda

Councilman Bateman moved adoption of the Consent Agenda, Items 1 through 12, both inclusive, as shown below; seconded by Councilwoman McMillan.

- (1) Minutes of the Special Meeting of August 11, 2009

Vote on Roll Call:

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

Nays: None

- (2) Minutes of the Work Session of August 11, 2009

Vote on Roll Call:

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

Nays: None

D. Consent Agenda Continued

- (3) Minutes of the Special Meeting of August 11, 2009

Vote on Roll Call:

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

Nays: None

- (4) Minutes of the Regular Meeting of August 11, 2009

Vote on Roll Call:

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

Nays: None

- (5) Minutes of the Special Meeting of August 25, 2009

Vote on Roll Call:

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

Nays: None

- (6) Resolution of Recognition: The Warwick Little League Junior League Baseball All-Star Team

A RESOLUTION OF RECOGNITION FOR THE WARWICK LITTLE LEAGUE JUNIOR LEAGUE BASEBALL ALL-STAR TEAM. This resolution recognized the Warwick Little League Junior League Baseball All-Star Team for outstanding achievement. The team won the Virginia Junior League Baseball Tournament Championship game on July 29, 2009. The team shut out Danville by a score of 10-0, becoming the first Warwick team to capture a State title and advance to the Little League Baseball Junior Southeast Regional Tournament in Cartersville, Georgia. The team won 14 consecutive games, heading into the semifinal. The resolution of recognition acknowledged the outstanding achievement of the team and encouraged them to continue their success. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (7) Resolution Authorizing Agreement between the City and the Acting City Manager

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA AND NEIL A. MORGAN DATED THE 8TH DAY OF SEPTEMBER, 2009. This resolution authorized the execution of an agreement between the City and Acting City Manager Neil A. Morgan. On August 11, 2009, the Newport News City

D. Consent Agenda Continued

- (7) Resolution Authorizing Agreement between the City and the Acting City Manager Continued

Council appointed Neil A. Morgan to the position of Acting City Manager of the City of Newport News, Virginia. In accordance with, and for the duration of the agreement, the Acting City Manager would perform all duties deemed normal and necessary for persons holding the position of City Manager, plus other duties as may be delegated by City Council. The appointment and agreement would remain in full force and effect unless modified or terminated in writing by mutual agreement of the parties.

Mr. David G. Irby, 18 Davis Avenue, Newport News, commented about the ideas that City Council could come up with if they were willing to talk with one another and work together. He expressed hope that Acting City Manager Neil Morgan would be willing to work with and for the City Council. Mr. Irby expressed disappointment that Mayor Frank had announced his intention not to seek re-election. He urged City Council to work together.

Vote on Roll Call:

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

Nays: None

- (8) Resolution Approving the Execution of the FY 2010 Hampton-Newport-News Community Services Board Performance Contract

A RESOLUTION EXPRESSING THE APPROVAL OF THE NEWPORT NEWS CITY COUNCIL FOR THE STATE FISCAL YEAR 2010 COMMUNITY SERVICES BOARD PERFORMANCE CONTRACT. This resolution approved the execution of the Fiscal Year 2010 Performance Contract for the Hampton-Newport News Community Services Board (H-NNCSB). Each Community Services Board (CSB) entered into an annual Community Services Performance Contract for the purpose of funding services provided directly or contractually by the CSB. The Performance Contract was the document mandated by the General Assembly to provide performance accountability to the State by CSBs. The Performance Contract translated State funding to the CSB into core services, and the estimated number of consumers to be served. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (9) Resolution of Support for the Capital Campaign of the Foodbank of the Virginia Peninsula

A RESOLUTION OF SUPPORT FOR THE CAPITAL CAMPAIGN OF THE FOODBANK OF THE VIRGINIA PENINSULA. This resolution supported the Capital Campaign of the Foodbank of the Virginia Peninsula. At its August 11, 2009 Work Session,

D. Consent Agenda Continued

- (9) Resolution of Support for the Capital Campaign of the Foodbank of the Virginia Peninsula Continued

City Council was updated on the status of the Foodbank's Capital Campaign and was asked to formally commit to funding the remaining balance due from the City's initial pledge of \$2 million. Of the \$2 million pledge, \$400,000 had been released, with an additional \$400,000 available from the FY 2009 Cash Capital allocation, leaving a balance of \$1.2 million. During a July 20, 2009 meeting between the former City Manager and representatives of the Foodbank, it was agreed that the \$1.2 million would be included in future Capital Improvement Plans (CIP), because of the City's fiscally constrained operations and to postpone additional allocations over the next two fiscal years. The resolution included the language in support of the Foodbank's Capital Campaign and Council's desire to make the remaining three annual installments. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (10) Resolution Authorizing the Renewal of a Lease Agreement with the Virginia Department of Historic Resources for Use of Office Space in the Warwick Courthouse

A RESOLUTION AUTHORIZING AND DIRECTING THE ACTING CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN RENEWAL OF LEASE FOR 1,100 SQUARE FEET OF SPACE AT 14415 OLD COURTHOUSE WAY BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND COMMONWEALTH OF VIRGINIA, FOR USE BY THE DEPARTMENT OF HISTORIC RESOURCES, DATED THE 8TH DAY OF SEPTEMBER, 2009. This resolution renewed the lease agreement with the Virginia Department of Historic Resources (VDHR) for 1,100 square feet of office space in the Warwick Courthouse at 14415 Old Courthouse Way. The five-year lease agreement, established in September 2004, expired September 15, 2009. The agreement allowed for a five-year renewal/extension at the discretion of the City and the VDHR requested the City renew the agreement. The Department of Parks, Recreation & Tourism supported the renewal/extension of the lease agreement, but recommended the lease term be reduced to one year. Other than reducing the lease length, the extended agreement would be under the same conditions and terms as the original lease. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

D. Consent Agenda Continued

- (11) Resolution Authorizing the Execution of the Peninsula Narcotics Enforcement Task Force (PNETF) Memorandum of Understanding (MOU)

A RESOLUTION TO REPEAL RESOLUTION NO. 11731-08 AND TO AUTHORIZE AND DIRECT THE ACTING CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN PENINSULA NARCOTICS ENFORCEMENT TASK FORCE MEMORANDUM OF UNDERSTANDING BY AND AMONG THE COMMONWEALTH OF VIRGINIA, DEPARTMENT OF STATE POLICE; THE CITY OF HAMPTON, VIRGINIA; THE CITY OF NEWPORT NEWS, VIRGINIA; AND THE PENINSULA ASSOCIATION OF COMMONWEALTH ATTORNEYS DATED THE 1ST DAY OF JULY, 2008. This resolution approved and executed the Peninsula Narcotics Enforcement Task Force (PNETF) Memorandum of Understanding (MOU), between the Virginia State Police, the City of Hampton, the City of Newport News, and the Peninsula Association of Commonwealth Attorneys. City Council approved the PNETF-MOU, dated July 1, 2008. The City of Hampton revised the MOU before executing it, to reference the City of Hampton, rather than the Hampton Police Department. The MOU provided for the cooperation of the signatories to establish the Task Force to enhance the enforcement of the Drug Control Act of the United States Code and the Virginia Code. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (12) Resolution Authorizing the Execution of the Standard Project Administration Agreement for the Congestion Mitigation and Air Quality Improvement Project (CMAQ) – Citywide Wayfinding Sign Program Phase II

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 PHASE II OF A WAYFINDING SIGN PROJECT AND GRANTING AUTHORITY TO PROCEED WITH THE PROJECT. This resolution authorized the Acting City Manager to execute the standard project administration agreement for the Congestion Mitigation and Air Quality Improvement Project (CMAQ) – Citywide Wayfinding Sign Program – Phase II. Council approved this action on May 26, 2009 and the Virginia Department of Transportation (VDOT) had since required administrative changes to the resolution. This resolution affirmed the administrative elements for Phase II of the Project, which established the cost of construction at \$500,000. The City received \$500,000 in CMAQ grant funds for Phase II of the project. No local matching funds were required. This was the second phase of a Citywide program to place signs that better directed motorists to destinations within the City. The City was to administer and front-fund the construction of this project. Upon completion of this project, the City would

D. Consent Agenda Continued

- (12) Resolution Authorizing the Execution of the Standard Project Administration Agreement for the Congestion Mitigation and Air Quality Improvement Project (CMAQ) – Citywide Wayfinding Sign Program Phase II Continued

be reimbursed 100% from Federal and State funds through VDOT. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

E. Other City Council Actions

- (1) Resolution Appropriating \$240,000 for Pump Station No. 24 Electrical Upgrade Project

A RESOLUTION APPROPRIATING FUNDS FROM 2009 VIRGINIA REVOLVING LOAN FUND (\$240,000.00) TO PUMP STATION NO. 24 ELECTRICAL UPGRADE (\$240,000.00). This resolution appropriated \$240,000.00 from the 2009 Virginia Revolving Loan Fund (VRLF) for Pump Station No. 24 Electrical Upgrade Project. This upgrade was required to prevent future sewage overflows, provide sufficient pump station capacity, and accommodate continuing development in the service area and HRSD pressure policy. The project proposed the installation of larger pump motors, controls, generator and electrical service, as well as flow monitoring equipment required for the regional consent order work. This appropriation covered the contract costs, Dominion Virginia Power upgrade costs, plus a 5% contingency. The VRLF Bond Authorization for improvement to Sanitary Sewer Systems was \$5,720,000. This appropriation left a remaining balance of \$3,250,000 to be appropriated. Debt service on sanitary sewer improvements financed through the VRLF was paid with sewer user fees. The Acting City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (2) Award of Bid for Pump Station No. 24 Electrical Upgrade Project

Councilwoman McMillan moved to award the bid for the Pump Station

E. Other City Council Actions Continued

- (2) Award of Bid for Pump Station No. 24 Electrical Upgrade Project Continued

No. 24 Electrical Upgrade Project to Mallory Electric Company; seconded by Councilwoman Scott. Mallory Electric Company was the low bidder on this project at \$184,300.00. Mallory Electric Company performed well on similar contracts for the City of Newport News and was recommended for award of the project. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (3) Resolution Appropriating \$2,230,000 for the Wastewater Pump Station Monitoring Equipment Installations, Phase II Project

A RESOLUTION APPROPRIATING FUNDS FROM 2009 VIRGINIA REVOLVING LOAN FUND (\$2,230,000.00) TO WASTEWATER PUMP STATION MONITORING EQUIPMENT – PHASE II (\$2,230,000.00). This resolution appropriated \$2,230,000 from the 2009 Virginia Revolving Loan Fund (VRLF) for the Wastewater Pump Station Monitoring Equipment Installations – Phase II Project. A regional consent order required sewage pump station alarm systems to collect required data to evaluate station performance and its replacement would satisfy this requirement. The project proposed the installation of flow monitoring and cellular modern data collection equipment at 106 sewage pump stations. This appropriation partially covered the contract costs, but combined with a previously appropriated \$690,000 would cover all contract costs, plus a 5% contingency. The VRLF Bond Authorization for improvements to Sanitary Sewer Systems was \$5,720,000. This appropriation left a remaining balance of \$3,490,000 to be appropriated. Debt service on sanitary sewer improvements financed through the VRLF was paid with sewer user fees. The Acting City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (4) Award of Bid for the Wastewater Pump Station Monitoring Equipment Installations, Phase II Project

Councilwoman McMillan moved to award the bid for the Wastewater Pump Station Monitoring Equipment Installations – Phase II Project to Systems East, Inc.;

E. Other City Council Actions Continued

- (4) Award of Bid for the Wastewater Pump Station Monitoring Equipment Installations, Phase II Project Continued

seconded by Councilwoman Scott. Systems East, Inc. was the low bidder on this project at \$2,778,095.21. Systems East, Inc. has performed well on similar contracts for the City of Newport News and was recommended for award of the project. The Acting City Manager recommended approval.

Councilman Bateman filed a Declaration pursuant to subdivision A3 of §3.3-3112 of the Virginia Conflict of Interest Act that (i) the Acting City Manager had recommended that the Newport News City Council award a bid to Systems East, Inc., the lowest bidder, for the Wastewater Pump Station Monitoring Equipment Installations, Phase II Project (the "transaction"); (ii) that he was an employee of TowneBank and Systems East, Inc. was a client of the bank; however he did not personally represent or provide services to Systems East, Inc.; (iii) that he had no personal interest affected by the transaction; and (iv) that he was able to participate in the transaction fairly, objectively, and in the public interest (a copy of the Declaration in Accord with Section 2.2-3115H of the Virginia Code is attached and made of part of these minutes).

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (5) Resolution Appropriating \$265,000 for the Purchase of 25.68+/- Acre Parcel at Diascund Shores Lane in New Kent County

A RESOLUTION APPROPRIATING FUNDS FROM WATERWORKS RESTRICTED LAND FUND – MISCELLANEOUS – CIP (\$265,000.00) TO WATERSHED LAND (\$265,000.00). This resolution appropriated \$265,000 for the purchase of the 25.68+/- acre parcel located at Diascund Shores Lane, New Kent County. The acquisition of property located at Diascund Creek Reservoir provided access to a portion of a major arm of the reservoir (from Route 620 to water's edge) and allowed Waterworks' staff to monitor land use activities and water quality. The parcel, owned by Frederic C. Glisson of Mechanicsville, Virginia, was 25.68+/- acres and had an appraised value of \$265,000. Funds in the amount of \$265,000 were available to be appropriated from the Waterworks' Restricted Land Fund that was established by City Council for the acquisition of properties needed for protection and management of the City's reservoirs. The Acting City Manager recommended approval.

(No registered speakers)

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

E. Other City Council Actions Continued

- (5) Resolution Appropriating \$265,000 for the Purchase of 25.68+ Acre Parcel at Diascund Shores Lane in New Kent County Continued

Vote on Roll Call:

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

Nays: None

- (6) Ordinance Authorizing the Acquisition of a 25.68+ Acre Parcel at Diascund Shores Lane in New Kent County

AN ORDINANCE AUTHORIZING AND DIRECTING THE ACTING CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN REAL ESTATE PURCHASE CONTRACT, AND ALL OTHER AGREEMENTS, DOCUMENTS AND NOTES RELATED TO THAT PURCHASE OF REAL ESTATE ADJACENT TO THE DIASCUND RESERVOIR IN NEW KENT COUNTY, BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND FREDERIC C. GLISSON, DATED THE 8TH DAY OF SEPTEMBER, 2009. This ordinance authorized the Acting City Manager to execute all documents necessary to acquire the Diascund Shores Lane Property. An offer to acquire the property for the appraised value of \$265,000 was made, contingent on City Council's approval, through the owner's agent, and accepted by the land owner. The Acting City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (7) Resolution Approving a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants Program Project – Bridge Replacements

A RESOLUTION IN SUPPORT OF A TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY (TIGER) DISCRETIONARY GRANTS PROGRAM PROJECT FOR THE CITY REPAIR OR REPLACEMENT OF FIVE BRIDGES LOCATED IN THE CITY OF NEWPORT NEWS. This resolution supported a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants Program Project for the City to replace five aging bridges. The TIGER Discretionary Grants Program was funded with \$1.5 billion and was a nationwide competitive process. The five bridge projects selected for this grant request were in need of replacement, some funded in the City's CIP and others in VDOT's FY 2010-2015 Six-Year Improvement Program. The deadline for application was September 15, 2009. Projects were expected to be complete by February 17, 2012. The estimated cost for this project was \$22.2 million, but it may be necessary for the City

E. Other City Council Actions Continued

- (7) Resolution Approving a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants Program Project – Bridge Replacements Continued

to appropriate \$2.2 million, to begin preliminary engineering design, in order to have the project completed by February 2012. The CIP had \$7.5 million for the Fort Eustis Bridge over the Lee Hall Reservoir, \$2.2 million for the Lake Maury Bridge, \$1.2 million for the Fort Eustis Bridge over the CSX Railroad, and \$1.1 million for the Huntington Avenue Bridge. The Acting City Manager recommended approval. He added this was a national, competitive program and the odds of the City receiving the funds were not good, but was worth making the request.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

- (8) Resolution in Support of a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants Program Project – Newport News Amtrak Station Relocation

A RESOLUTION IN SUPPORT OF A TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY (TIGER) DISCRETIONARY GRANTS PROGRAM PROJECT FOR THE CITY TO RELOCATE THE NEWPORT NEWS AMTRAK STATION TO A SITE DOWNTOWN AND CONSTRUCT A NEW STATION AT BLAND BOULEVARD. This resolution supported a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants Program Project for the City to relocate the Newport News Amtrak Station. The TIGER Discretionary Grants Program was funded with \$1.5 billion and was a nationwide competitive process. The project selected for this grant would relocate the existing Amtrak Station at 9304 Warwick Boulevard to a site near the CSX Railway freight yard on 30th Street in downtown Newport News, and add a second station on Bland Boulevard on 31 acres owned by the City. The project was consistent with the Virginia Department of Rail and Public Transportation's (DRPT) 2008 Statewide Rail Plan. The deadline for application was September 15, 2009 and projects were expected to be complete by February 17, 2012. The estimated cost for this project was \$20 million, but it may be necessary for the City to appropriate reimbursable costs to begin preliminary engineering design in order to have the project complete by February 2012. The Acting City Manager recommended approval.

(No registered speakers)

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

E. Other City Council Actions Continued

- (8) Resolution in Support of a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants Program Project – Newport News Amtrak Station Relocation Continued

Mayor Frank stated, if funding were approved, that one of these stations was intended to be at Bland Boulevard and the other at 30th Street downtown between Warwick Boulevard and the CSX railroad; but he felt a better place would be on the waterfront to provide some connectivity between the Southside and Hampton Roads. He inquired about the reason for the site selection at 30th Street. Acting City Manager Morgan responded that the State Department of Rail liked the site and advocated the project. He stated if the City was fortunate enough to receive the \$30 million grant, the City would not be able to acquire the property and put the tracks in to do it on the waterfront.

Vote on Roll Call:

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

Nays: None

F. Appropriations

Councilman Bateman moved adoption of Items 1 through 5, as shown below; seconded by Vice Mayor Whitaker.

- (1) Police Department – Virginia Department of Emergency Management Grant

A RESOLUTION APPROPRIATING FUNDS FROM FEDERAL REVENUE (\$1,200.00) AND POLICE ASSET FORFEITURE (\$400.00) TO SPECIALIZED POLICE SUPPLIES (\$1,600.00). This resolution appropriated funds from the Virginia Department of Emergency Management for the Police Department to purchase two hand-held multi-threat detection systems. The City applied for and received a grant from the Virginia Department of Emergency Management, part of the 2007 Port Security Program, Department of Homeland Security. The Police Department received \$1,200 in federal funds to purchase the two hand-held multi-threat detection systems. A local match of \$400 was required for the grant. The grant match was funded by reallocating previously appropriated Asset Forfeiture funds. This allowed the use of federal grant funds in the amount of \$1,200 and reallocated Asset Forfeiture funds in the amount of \$400. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

F. Appropriations Continued

- (2) Police Department – Virginia Department of Emergency Management Grant

A RESOLUTION APPROPRIATING FUNDS FROM FEDERAL REVENUE (\$15,000.00) AND POLICE ASSET FORFEITURE (\$5,000.00) TO SPECIALIZED POLICE SUPPLIES (\$20,000.00). This resolution appropriated funds from the Virginia Department of Emergency Management for the Police Department to purchase a forward looking infrared radar (FLIR) system. The City applied for and received a grant from the Virginia Department of Emergency Management, part of the 2007 Port Security Program, Department of Homeland Security. The Police Department received \$15,000 in federal funds to purchase the FLIR system. A local match of \$5,000 was required for the grant. The grant match was funded by reallocating previously appropriated Asset Forfeiture funds. This allowed the use of federal funds in the amount of \$15,000 and reallocated Asset Forfeiture funds in the amount of \$5,000. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (3) Police Department – Virginia Department of Emergency Management Grant

A RESOLUTION APPROPRIATING FUNDS FROM FEDERAL REVENUE (\$487,500.00) AND POLICE ASSET FORFEITURE (\$162,500.00) TO MACHINERY AND EQUIPMENT (\$650,000.00). This resolution appropriated funds from the Virginia Department of Emergency Management for the Police Department to purchase a mobile command unit. The City applied for and received a grant from the Virginia Department of Emergency Management, part of the 2007 Port Security Program, Department of Homeland Security. The Police Department received \$487,500 in federal funds toward the purchase of the vehicle. A local match of \$162,500 was required for the grant. A grant match was funded by a combination of appropriating Asset Forfeiture funds (\$139,000) and reallocating previously appropriated Asset Forfeiture funds (\$23,500). This allowed the use of federal grant funds in the amount of \$487,500 and matching funds from Asset Forfeiture in the amount of \$162,500. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

F. Appropriations Continued

- (4) Commonwealth's Attorney's Office – Department of Criminal Justice Services Victim/Witness Program Grant

A RESOLUTION APPROPRIATING FUNDS FROM FEDERAL REVENUE (\$221,708.00) AND VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE SERVICES (\$73,902.00) TO VICTIM WITNESS PROGRAM GRANT (\$295,610.00). This resolution appropriated funds from the federal government and State Department of Criminal Justice to the Victim/Witness Program. The Victim Witness program provided a variety of services and referral assistance to victims and witnesses of crime. The City applied for and received a grant from the federal government and State Department of Criminal Justice in the amount of \$295,610. The Commonwealth's Attorney's Office Victim/Witness Program received \$295,610 to support staff salaries and program supplies. This allowed the use of federal and state funds in the amount of \$295,610 for the Victim/Witness Program. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (5) Peninsula Disability Services Board – State Grant Revenue

A RESOLUTION APPROPRIATING FUNDS FROM VIRGINIA DEPARTMENT OF REHABILITATIVE SERVICES (\$3,700.00) TO PENINSULA DISABILITY SERVICES BOARD (\$3,700.00). This resolution appropriated \$3,700.00 of State Grant Revenue for Fiscal Year 2009 Peninsula Disability Services Board. The City of Newport News acted as fiscal agent for the Peninsula Disability Services Board (PDSB), which had representation from the Cities of Newport News, Hampton, Williamsburg, Poquoson, and the Counties of James City and York. This was the ninth year the City had acted as fiscal agent for this program. The grant was appropriated annually to enable the disbursement of the funds. The annual appropriation prior to FY 2009 was \$14,800. Due to state budget shortfalls, the grant was reduced to \$3,700. The grant monies were used solely for the Board's staff support. No local grant match was required. The Acting City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

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

Ms. Kimberly L. Winn, 29 Curtis Tignor Road , Newport News, commended City Council and expressed appreciation for their hard work. She further addressed the need

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

for the West Avenue Library and a desperate need to keep it open more on a regular basis. Ms. Wynn further commented about a focus of, and the need for affordable housing when discussing improvements in the Southeast community.

Mr. John Gergeley, 449 Winterhaven Drive, Newport News, expressed concern about the 35 mph speed limit on Warwick Boulevard near Christopher Newport University (CNU), particularly in the context of the Middle Ground Boulevard extension. He shared, according to The Oyster Point Transportation Study; extending Middle Ground Boulevard would improve traffic by 5 or 6 seconds at each of the 14 intersections studied. He reminded City Council that \$100 million was spent to widen Warwick Boulevard, and felt it was wasted if the speed limit was not 45 mph near CNU. He urged City Council to reconsider its previous decision and set the speed limit at 45 mph throughout Warwick Boulevard.

Mr. John Procyson, 305 Normandy Lane, Newport News, suggested the “movers and shakers” of Newport News that spoke in support of former City Manager, Randy Hildebrandt, at the Regular City Council Meeting of August 11, 2009, were present only to intimidate the members of City Council. He shared that most of the speakers lived in other cities or counties, with lower taxes and less crime. He felt that City Council now had an opportunity to do good things for all citizens in Newport News, as opposed to the favored few.

Mr. Procyson stated two events showed why the Economic Development Authority (EDA) needed much more oversight. They were (1) DVF Sports, a local Denbigh business was going out of business. The business received no help from the City, nor did they request help; and, at the same time, (2) the headquarters of the Atlantic 10, would move from Philadelphia to Newport News, with ten or more employees; and would receive a \$50,000 package of incentives to move to City Center. He reminded it was time for a change in Newport News.

Reverend James Rudisill, West Pembroke Avenue, Newport News, representing the homeless, addressed the City’s policies with regard to not making public property available to homeless citizens. He cited that the United States Constitution guaranteed a person the right of life, liberty, and property. Reverend Rudisill advised that some of the citizens had lost their jobs, through no fault of their own, and could not pay for housing. He stated there was no place in the City of Newport News that a homeless person could legally be or stop, finding themselves under bridges, rails, hiding from the Police. He reminded that City employees, under the direction of management, had taken the personal property of the homeless individuals. He had requested an investigation of the matter, which did not find which trucks, and employees were involved. He reiterated that the City reconsider the policy of immediate destruction of the belongings of the homeless.

Acting City Manager Morgan advised that a memorandum had been forwarded to City Council stating that no City Department could be found that was involved in the particular incident referenced by Reverend Rudisill. Assistant City Manager Alan Archer had initiated a process with City Departments that may be included in this type of recovery, i.e. Police, Codes, City Farm, and Public Works, and hoped to have procedures in place by September 30, 2009.

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

Acting City Manager Morgan stated that homeless issues were being dealt with throughout the country and that he was open to other thoughts and ideas on the matter.

Councilwoman Scott inquired whether the City Departments were advised of what they should or should not do in the interim, i.e. cease destruction of property. Acting City Manager Morgan indicated the property would be left alone and not destroyed until a policy was in place.

Councilwoman Woodbury suggested that the City help those people, in some way, that had lost their property, i.e. make someone available to help obtain replacement identification and property.

Councilwoman Scott asked that that person work with Reverend Rudisill to give direction to the homeless individuals needing assistance. Acting City Manager Morgan indicated the City would be willing to work with Reverend Rudisill however possible.

Ms. Carol Hogge, 3 Gay Drive, Newport News, commented on the Deep Creek Pier. She indicated that she began working as a commercial waterwoman. She expressed the need for the Deep Creek Pier, indicating her belief, "where there is a will, there is a way." Ms. Hogge reiterated that rebuilding the Pier would benefit the watermen, the public, and the seafood buyers; but if the James River Marina built a pier, it would only benefit private enterprise. She advocated for the replacement of the Deep Creek Pier.

H. New Business and Councilmember Comments

Councilwoman Vick reminded citizens of the Southeast Day Parade and Festival activities, September 11, 2009 through September 13, 2009. Dr. Alveda C. King, niece of Reverend Dr. Martin Luther King, Jr., would be the guest speaker for the Solidarity Luncheon at the Omni Newport News Hotel and the Presidential Reception at the Mariners' Museum. The Parade would be held on Saturday, September 12, 2009 at 10:00 a.m. She urged all to attend.

Mayor Frank congratulated Chief Kenneth Jones, Newport News Fire Chief, and his staff for receipt of a Public Protection Classification (PPC) Class 2 rating from the Insurance Service Office. One of only six fire departments in the State of Virginia had reached this level of distinction. There were no Class 1 fire departments in the State. The Newport News Fire Department was one of over 740 Class 2 fire departments in the United States that had reached this level. Mayor Frank indicated that the Insurance Service Office also certified to insurance companies the level of fire service that a community provided. He was hopeful that fire insurance rates would be reduced in Newport News because of the quality of fire service.

Mayor Frank stated there was some misinformation in the press regarding the Newport News Public Schools (NNPS) handling of President Barack Obama's speech to school children. Mayor Frank asked Dr. Ashby Kilgore, NNPS Superintendent, to forward information, which stated that every school had a live viewing site where all students could watch the President's address. He further advised that the address was also recorded and posted on the

H. New Business and Councilmember Comments Continued

NNPS website for any student to access at a later time. Mayor Frank stated the NNPS did allow students to participate in the President's address. Those who chose to come were allowed, and those who chose not to, were permitted to remain in the classrooms or go to an alternate site.

Councilwoman McMillan reiterated the upcoming festivities of the Southeast Community Day Parade and Festival. She encouraged everyone to attend.

Councilwoman McMillan reminded about the ceremony celebrating the moving of the Lee Hall Depot to its permanent spot, on Wednesday, September 9, 2009, at 11:00 a.m. It was also the kick-off to the fundraiser to start renovating the Depot. She encouraged all to attend.

Councilwoman McMillan reminded citizens that September 11, 2009 was the nationwide "Day of Remembrance." Citizens were asked to display their American flags.

Councilwoman McMillan announced the 2009 Denbigh Day Parade was scheduled for Saturday, September 19, 2009. There would be booths, games and fun for all.

Councilwoman Scott commended the Newport News Police Department for hosting the "Field of Friends," which was held in all districts. She thanked the Hampton-Newport News Continentals for donating free school supplies to the children.

Councilwoman Scott commended young men, known as "Best Kept Secret," who provided free haircuts to children across the City. This was done as an effort to raise the level of self-esteem for those students before heading back to school.

Councilwoman Scott advised that September 4, 2009 ended the initiative, "Feeding Future Leaders," a USDA federally-funded program. She stated approximately 5,000 youth were fed per day. She thanked the Newport News Public Schools for their participation in the venture, allowing access to some of the schools. It was a great program, with 150 young people being employed. She further thanked "Peace in the Streets," a non-profit partner of the "Feeding Future Leaders" initiative.

Councilwoman Scott advised she had received numerous calls regarding busing. She encouraged citizens to contact the Newport News Public School Board office for direction.

Councilwoman Scott extended a Belated Happy 81st Birthday to Ms. Madzy Monsanto, also known as "Grandma," a crime watch advocate in the City of Newport News.

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 9:19 P.M.

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Minutes of Regular Meeting
September 8, 2009

Mabel Washington Jenkins, CMC
City Clerk

Joe S. Frank
Mayor
Presiding Officer

A true copy, teste:

City Clerk