

MINUTES OF WORK SESSION
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10th FLOOR CONFERENCE ROOM
2400 Washington Avenue
October 27, 2009
4:00 p.m.

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

ABSENT: None ----- 0

OTHERS PRESENT: Neil Morgan; Allen Jackson; Mabel Washington Jenkins; Alan Archer; Cynthia Rohlf; Wanda Pierre; Harold Roach; Michael Poplawski; LaVerne Lovett; Lisa Cipriano; Steve Carpenter; William Keeler; Chad Pritchett; Robyn Rose; Michael Nall; Chuck Young; Al Riutort; Sheila McAllister; Michael Redifer; Cathy Grimes; and Jennifer Walker

I. CIP Presentation

Mr. Neil Morgan, Acting City Manager, stated the City Manager was required, by ordinance, to present the recommended Capital Improvement Plan (CIP) to City Council no later than November 1 of each year. He introduced Mr. Michael Poplawski, Director, Department of Parks, Recreation and Tourism, to summarize the proposed FY 2011 – FY 2015 CIP. Acting City Manager Morgan stated a more detailed interactive discussion of the CIP would be scheduled for the November 24, 2009 Work Session of City Council.

Mr. Poplawski stated the FY 2011 – FY 2015 CIP process included a multi-departmental review committee. He reported the multi-departmental review committee reviewed and analyzed departmental requests, established priorities and presented recommendations to the City’s management team. Mr. Poplawski stated the Acting City Manager hoped to review the CIP with City Council at the November 24, 2009 Work Session with final adoption by January 2010. (A copy of the presentation, “City Manager’s Proposed Capital Improvement Plan (CIP) FY 2011 – FY 2015, City Council Overview, October 17, 2009,” is attached and made a part of these minutes.)

Mr. Poplawski revisited the highlights of the approved FY 2010 CIP, which included the following projects:

- Southeast Development - \$1.21 million;
- P-25 Radio Upgrade - \$1.3 million;
- Fire Station #3 - \$5.3 million;
- Stoney Run Recreation Center - \$1.55 million; and
- School Improvements - \$6.335 million.

Mr. Poplawski reported the recommended FY 2011 – FY 2015 CIP included \$32,232,460 in General Fund Cash; \$157,500,639 in General Obligation Bonds; \$35,552,450 in Grant Funds; and \$128,723,000 in Self-Supporting Funds. Mr. Poplawski stated the proposed 2011 General Obligation portion of the FY 2011 – FY 2015 CIP included the following projects:

- Stoney Run Recreation Center - \$12 million;
- Reserved for Schools - \$6.5 million;
- P-25 Radios - \$2.17 million;
- Radio Rebanding - \$280,000;
- Richneck Road - \$2.55 million;
- Ft. Eustis Bridge over C&O Railroad - \$300,000;
- Jefferson Park - \$1.5 million;
- Park/Recreation Facilities - \$450,000;
- Environmental Remediation - \$250,000;
- Environmental Remediation - \$250,000;
- DEQ Sanitary Sewer Consent Order - \$2 million;
- Southeast Community Redevelopment - \$1.5 million;
- Fire Station #9 Repairs/Renovations - \$200,000; and
- Economic Development Projects - \$450,000.

Mr. Poplawski reported the proposed 2011 Cash Capital portion of the FY 2010 – FY 2015 CIP included the following projects:

- Southeast Community Redevelopment - \$220,000;
- USS Monitor Center Commitment - \$500,000;
- Fire Apparatus Replacement - \$960,000;
- Historic Preservation - \$100,000;
- Public Landscaping - \$170,000;
- Major Renovations and Repairs – Public Buildings - \$1 million;
- Carpeting – Main Street Library - \$140,000;
- Hurricane Shutters – Main Street Library - \$37,460;
- School Buses – \$1 million; and
- Arterial Street Reconstruction - \$1.1 million.

Mr. Poplawski noted highlights of the proposed project in the 2012, 2013, 2014 and 2015 portion of the FY 2010 – FY 2015 CIP, which are included in the attached presentation on pages 16 – 19.

Acting City Manager Morgan stated the General Obligation Bond amount was the critical number for the FY 2011 – FY 2015 CIP. He stated City Council needed to keep funding

amounts in mind to meet the committed ratios of prior years. Grant figures were an educated guess as to what might be received. The reality of the plan could phase out prior to implementation. He stated notice of a stimulus grant that would cover approximately one-half of the funding for Fire Station #3 in the Brentwood area of the City had been received. Receipt of the stimulus grant would allow the City to shift funding for Fire Station #3, in the FY 2010 CIP, to Richneck Road - Phase I. He indicated funding for golf course renovations was moved to FY 2013; however, City Council needed to decide to do renovations sooner if they wanted to maintain a public golf course at Deer Run. No one could declare that the golf course would become totally unusable on a specific date, but there were clear trends towards its deterioration. He voiced concern that funding for general maintenance of City facilities was not as generous as it should be; however the numbers were adequate. (A copy of the City Manager's recommended Capital Improvement Plan, FY 2011 – FY 2015, is attached and made a part of these minutes.)

II. Pension/OPEB Package/Issues

Acting City Manager Morgan recommended the following changes to the City's Pension and Other Post Employment Benefits (OPEB):

- Reduce the Multiplier from 2% to 1.85%, prospectively;
- Increase the retirement age by five years for general and public safety employees; new hires only;
- Exclude overtime and non-salary earnings, prospectively, from the calculation of average final compensation;
- Use time actually worked for determining retirement eligibility; and
- Establish the spousal annuity as an elective.

Acting City Manager Morgan stated the main savings in the Pension Fund would be seen by reducing the multiplier. He stated other savings came from matters such as eliminating overtime, tool allowances, and car allowances towards the total average final compensation. Very few communities around Virginia allowed such a benefit. It was a sensitive topic with employees; however, he recommended that it not be counted prospectively. The most important matter was how to deal with new employees. He reminded of City Council's prior decision to go to a seven-year vesting period for new employees and noted his disagreement with such a proposal. He stated increasing the vesting period from five-to-seven years would not render a significant savings, and would put the City in a position to be the only regional jurisdiction offering a seven-year vesting period; other surrounding localities offered a five-year vesting period. If City Council desired to keep new hires in the retirement system, it would be his recommendation to continue the five-year vesting period.

Councilwoman Woodbury stated, after reading through the City Manager's proposal and his breakdown, she felt it was a good argument to stay with a five-year vesting period, particularly, in light of what was offered to employees in surrounding areas.

Acting City Manager Morgan stated that he had asked the Retirement Board to do an analysis of the costs/benefits associated with the City's election to transition all new hires to the Virginia Retirement System (VRS). The Retirement Board had agreed to undertake the analysis and provide a recommendation. He felt the idea deserved serious consideration and could ultimately reduce the City's long-term pension costs and liabilities. The City would be required to "pay as you go," and the funding would be allocated in the annual budget. Having new hires join VRS would resolve the vesting issue as well as the issue of providing a supplemental pension benefit to Public Safety personnel, as the City would offer the same benefit plan as other localities. He would report back to City Council at either the November 10 or November 24, 2009 Work Session with his report on the Pension Board's decision and his final recommendation for what the City should do for new hires. He felt VRS was something the City should consider.

Councilwoman McMillan stated she did not have a problem remaining at the five-year vesting period and also understood, as noted by the Acting City Manager, some of the savings that would be associated with VRS. She stated the short-term vesting period would be a plus for a potential employee under VRS and inquired about the advantages of their retirement benefit. Acting City Manager Morgan stated VRS appealed to him because it had long-term financial savings for the City and, at the same time, offered attractive features for employees, i.e. portability. He stated the Pension Board had to review the matter and report back to him on the savings, but he felt there would be some meaningful savings beyond the \$93 million that was presently on the table. The advantages to employees would be total portability around the state; however, it did have an up-and-down side. If an employee currently in the Pension system wanted to transfer after ten years, the VRS multiplier was 1.75%, which was a reduction from what the City offered. On the other hand Public Safety employees would receive the supplemental benefit that was equal to other jurisdictions.

Councilwoman McMillan inquired whether the \$93 million included the savings that the City would realize if it went to VRS for new hires. Acting City Manager Morgan replied the \$93 million did not include the savings the City would realize if it transitioned all new hires to VRS.

Councilwoman McMillan inquired about additional savings should the City switch all new hires to the VRS. Acting City Manager Morgan replied the preliminary information estimated 20% to 30% in savings over ten-years, in addition to the \$93 million already forecasted; however, he was only estimating and the figures had not been analyzed.

Acting City Manager Morgan voiced concern that the reduction in the multiplier, as well as the other changes in the pension benefits program, would place the City at a disadvantage in recruiting and retaining public safety personnel. This was a very important issue that needed further consideration, and he recommended that it be reviewed by the Retirement Board. The Retirement Board reviewed the issue, but did not support adding a pension supplement for public safety personnel. Acting City Manager Morgan stated he continued to be concerned about the ability to recruit and retain public safety personnel if the issue was not addressed.

Mayor Frank voiced concern about the Retirement Board's recommendation not to support adding a pension supplement for public safety personnel, should the multiplier be reduced from 2% to 1.85%. He felt it was a fair comment by Public Safety personnel that all of their overtime was not voluntary. He asked that the Acting City Manager give more thought and consideration to a plan that was equitable for Public Safety personnel.

Councilwoman McMillan reminded the overtime issue for Public Safety personnel had been discussed months ago. As she mentioned in December 2008, Councilwoman McMillan agreed with Mayor Frank that some overtime was mandatory. She understood from previous discussions, Newport News was the only locality that included overtime in the calculation of an employee's average final compensation. Acting City Manager Morgan stated he believed that was the case.

Councilwoman McMillan understood Public Safety personnel, under VRS, would receive a pension supplement. Acting City Manager Morgan stated new public safety personnel would become a part of VRS, and the pension supplement would not be an issue. The only issue would exist with current public safety employees. Acting City Manager Morgan stated the pension supplement issue would affect the City's junior public safety personnel, who would not have the benefit of a 2% multiplier over 20 or more years, and who would receive a lesser multiplier and not have the LEOS benefit.

Councilwoman McMillan recalled proposing that the City allocate a certain percentage of overtime towards one's retirement, to distinguish between mandatory and voluntary overtime. She inquired whether it was possible for an employee to claim 40% of their overtime towards their retirement. Acting City Manager Morgan suggested that overtime be capped, i.e. the first \$1,500 dollars of an employee's overtime pay would count towards their average final compensation, without getting into the issue of whether the overtime was voluntary or mandatory. He asked City Council to consider something specific; however, suggested that

whatever City Council decided should not be implemented until February 1, 2010, rather than January 1, 2010, as previously proposed. Delaying the effective date would allow sufficient time to inform employees and retirees of any changes and would provide the additional time necessary to decide whether or not new employees should be transitioned to VRS.

Mayor Frank stated there were other categories of City employees who worked mandatory overtime, which he had not thought about. Acting City Manager Morgan agreed there were other categories of employees who worked mandatory overtime.

Councilwoman Vick recalled City Council had decided to exclude overtime from the calculation of an employee's average final compensation because employees received pay for overtime.

Councilwoman Woodbury stated she could handle a proposal by the Acting City Manager to count a percentage of an employee's overtime towards the calculation of their average final salary, i.e. a \$1,500 cap. She felt it was wrong to take all of the overtime credit away from employees who were required to work mandatory overtime. She felt a compromise would be to include a portion of the overtime.

Mayor Frank agreed and asked the Acting City Manager to provide City Council with the impact on the total savings achieved if a capped amount or percentage of overtime into the calculation of an employee's average final compensation were included.

City Council was in consensus on the following Pension Benefit recommendations: 1) Reducing the Multiplier from 2% to 1.85%, prospectively; 2) Increasing the retirement age by five years for general and public safety personnel; only new hires; 3) Using time actually worked for determining retirement eligibility, prospectively; 4) Establishing the spousal annuity as an elective for new hires; 5) Have the Acting City Manager report back to City Council in November 2009 on the issues, impacts and benefits of switching to the Virginia Retirement System for new hires and instituting a cap and/or percentage on the amount of overtime an employee could use towards the calculation of their average final compensation. Acting City Manager Morgan stated he would provide City Council with the issues, impacts and benefits of switching to the Virginia Retirement System for new hires and instituting a cap and/or percentage on the amount of overtime an employee could use towards the calculation of their average final compensation for review by the November 24, 2009 regular meeting.

Mayor Frank inquired whether there was a buy-in to switch to VRS. Acting City Manager Morgan replied there would be no buy-in for the City to become a part of VRS; however, he cautioned that the City would be required to adhere to VRS's discipline on the amount of funding required annually.

Councilwoman Woodbury recalled attending a Retirement Board seminar in January 2009, where the Board suggested the City switch to VRS. She stated VRS had done a better job in the funding of its retirement and benefits and their pool was larger.

Councilman Bateman inquired whether switching to VRS would change the bond rating agency's perception of the City. Acting City Manager Morgan replied Hampton and Portsmouth had switched their retirement systems to VRS before the economy faltered, and were not having the discussions that Newport News was now having.

Acting City Manager Morgan stated he would work with the City Attorney's Office to develop the required action items to implement changes for consideration in November 2009. (A copy of memo dated October 22, 2009 to the City Council from the Acting City Manager, regarding, "Final Recommendations on Pension and OPEB," is attached and made a part of these minutes.)

III. Status Update

- Drywall Issues

Acting City Manager Morgan introduced Ms. Cindy Rohlf, Assistant City Manager, to report on the Chinese Drywall issue.

Ms. Rohlf stated the City had tried to work with and do everything that was appropriate to assist the residents of the Hollymeade subdivision that were affected by Chinese drywall issues. The Departments of Codes Compliance had been out to do inspections, and had received calls from 11 residents of the Hollymeade subdivision. The Department of Codes Compliance had made ten site visits to the Hollymeade subdivision and, of the ten visits, had evidenced symptoms of defective Chinese drywall. The Department of Codes Compliance had not yet received any type of certification or testing results to confirm that Chinese drywall existed; however, residents had been experiencing the symptoms that were related to Chinese drywall.

Councilwoman McMillan understood there were more than 11 property owners who felt they were affected by Chinese drywall, but were afraid to go public for fear of their homeowner's insurance being cancelled. She voiced concern about the number of Hollymeade residents who were actually affected. Hollymeade was a high-end townhome development and the publicity surrounding the issue did not benefit the residents, whether they knew they had Chinese drywall or not.

Councilwoman McMillan indicated Delegate Hamilton had sent a specific inquiry to the State, which she forwarded to Ms. Rohlf. She stated Congressman Whitman had approached the matter at the federal level and invited President Obama to visit Hollymeade

during his trip to the Hampton Roads area. Councilwoman McMillan voiced concern that the health of the entire Hollymeade subdivision be considered by the City. She felt no one would want to move into a development knowing that their neighbors had Chinese drywall. Whether a person had the Chinese drywall or not, the fact that it had been identified, affected everyone's property values across the board. She hoped that Ms. Rohlf had coordinated with other elected officials regarding this issue. She inquired whether Ms. Rohlf had spoken with elected officials. Ms. Rohlf responded that Ms. Jerri Wilson, Management and Legislative Program Analyst, had been in contact with elected officials, regarding the Chinese drywall issue.

Ms. Rohlf reiterated that the Department of Codes Compliance had only heard from 11 Hollymeade property owners; however, it was her understanding that 30 or more residents were in contact with an attorney. She stated the matter had to be an enforcement issue for the City to become involved in or take any action. The attorney for the Hollymeade residents had advised that the toxic Chinese drywall was a civil issue, not an enforcement issue, and most of the residents were pursuing legal advice.

Councilwoman McMillan inquired whether the City had spoken with the developer and/or the builder of the Hollymeade subdivision. She indicated she had a conversation with the developer. Ms. Rohlf felt there had been some discussions between the Department of Codes Compliance and the developer. Mr. Harold Roach, Director, Department of Codes Compliance, replied that Mr. Michael Nall, Assistant Director, Department of Codes Compliance, had been working on the matter. He asked Mr. Nall to answer any questions. Ms. Rohlf also understood Mr. Chuck Young, City Assessor, had spoken with the attorneys for the homeowners. Ms. Rohlf stated the City had been trying to do as much as possible to receive additional information on the matter.

Councilwoman McMillan stated she realized there were limitations as to what could be done, and felt the only thing that could be done, other than being an advocate for the citizens, was to re-evaluate the value of the Hollymeade property. She voiced concern that something needed to be done, and nothing seemed to be moving along. She questioned what could be done to be a catalyst for making sure that action took place on other levels. Ms. Rohlf stated a great deal hinged on when the Consumer Product Safety Commission came out with a recommendation or report, at the end of November 2009, on whether or not there were health issues associated with the Chinese drywall. She stated staff was waiting on a definitive word from the federal government. The City had done all it could to facilitate and was not waiting on that to make any type of tax deductions.

Ms. Rohlf stated the Department of Codes Compliance felt relying on the Building Code standard would be acceptable, but realized it was too burdensome to the Hollymeade homeowners. She stated the City Assessor, building officials and the Department of Codes Compliance, would get with the City Attorney's office to ensure that some

type of standard to determine whether there was defective Chinese drywall that was not quite as onerous as the State Building Code standards. The City was not going to require any type of testing; it was going to go on the preponderance of the evidence. City staff had not quite figured what they would do. City staff was reviewing the issue of a reduced assessment and tax reduction for the Hollymeade residents who were affected by Chinese drywall. City staff laid out three or four options; however, she cautioned that the matter of an assessment reduction had to be determined by the City Assessor. City staff felt it needed to take the opportunity to offer some options and feedback, since it was a public policy issue that had many ramifications.

Councilwoman Scott inquired whether anyone had talked with the developer to inquire whether they would accept responsibility for full replacement of the drywall. She felt the developer should fight the entity that provided the drywall. Councilwoman McMillan replied that she had that discussion. Ms. Rohlf believed there had been some discussions, but could not indicate whether or not the developer agreed to step-up. Mr. Michael Redifer, Building Official, Department of Codes Compliance, stated he had a brief discussion with the developer and builder who were aware of the problem and were monitoring and investigating the issue. He stated neither the developer nor builder had presented a plan to remediate any Chinese drywall problems.

Councilwoman McMillan stated, in her conversation with the developer, he was very sympathetic and indicated it was the builder who purchased the supplies; it was not his responsibility. Ms. Rohlf stated that was the distinction the City wanted to make, because the developer and the builder played different roles. Ms. Rohlf understood there had been some conversation and was sure that the Hollymeade homeowner's attorney had been working with the builder. She was not aware that the builder had stepped up to do something similar to what had been done in Chesapeake by a builder of another subdivision.

Councilwoman Woodbury inquired about the action taken by the builder in Chesapeake. Councilwoman McMillan replied the builder moved the people out, provided an allowance and came in and totally rebuilt the unit's interior.

Mayor Frank stated the City certainly wanted to be as forceful and effective as it could in supporting the Hollymeade homeowners, as noted by Councilwoman McMillan. What the City could do, in that regard, should be done as quickly as possible; however, the City needed to be fair to all of its taxpayers. When the Hollymeade homeowners were relieved from tax liability, because of Chinese drywall issues, it would put additional burden on other taxpayer's who had to make up the lost revenue. Mayor Frank stated the question was how to implement tax relief, whether it was for one or two years. He inquired how property tax would be recouped if it reduced the property value to \$1,000 and the property owner turned around and sold the

property for \$150,000. He did not know what was right or equitable. He cautioned that City Council be fair to all taxpayers, in their eagerness to be fair and appropriate in responding to what clearly was a crisis that the Hollymeade residents should not have to live with. That meant the abatement that was appropriate for the present circumstances should not be permanent, especially if the property was sold for profit.

Acting City Manager Morgan understood the City Assessor had to follow State law and indicated staff tried to be transparent in sharing different ways one could come to some reasonable calculation. He stated the end result had to be the judgment of the City Assessor as to how to offer tax relief to the residents of Hollymeade. He understood the City Assessor had been in conversations with other jurisdictions. The range of issues, noted in the memo to City Council from the City Manager, dated October 22, 2009, referenced options that other jurisdictions were doing to combat such problems. The City wanted to help; however, as pointed out in the memo, it was not practical help, such as a check to the homeowners; it would only be a check forwarded to the homeowner's escrow account of their mortgage company. (A copy of the memo, dated October 22, 2009, to City Council from the Acting City Manager, regarding "Update on Chinese Drywall Issue," is attached and made a part of these minutes.

Councilwoman McMillan voiced concern that many of the residents were carrying a double financial burden. She understood that Pastor Michaux moved out of his unit, which meant he not only had a mortgage, but additional housing to pay for his family. As stated by the Acting City Manager, the check to the homeowner's mortgage company would not be immediate relief for the homeowners.

Acting City Manager Morgan stated the lower assessment would not do the homeowner's any justice, depending on whether they wanted to remarket their homes. He felt that the State and Federal government could lend a helping hand to provide more practical relief to the homeowners. The City was trying to help the homeowners, but had to stay engaged within the constraints of the law.

Councilwoman McMillan understood the Acting City Manager's recommendation was to provide a reduction in the tax assessment of 75% of the improved value. Acting City Manager Morgan replied that was his recommendation, but it would ultimately be the Assessor's call. He felt 75% was a reasonable value, which gave the homeowners some remaining value in their homes. He understood the most common response was a 50% reduction in the assessment of the house's value or \$100,000, whichever was greater.

Ms. Rohlf understood Virginia Beach was offering a 50% reduction in the assessment of the house's value or \$100,000 or whichever was greater.

Councilwoman McMillan inquired how a 75% reduction would affect the Hollymeade residents that were not affected by Chinese drywall, or those who did not know

whether they had Chinese drywall. Ms. Rohlf stated the City could not legally reduce or change the assessments of the Hollymeade residents that were not affected by Chinese drywall.

Councilwoman McMillan questioned how the City would monitor the marketability of the Hollymeade homes. She stated there was no other townhome development in the area, similar to Hollymeade, and questioned how a market comparison would be done for someone that was going to sell their townhome. She further questioned who would move into a development with a number of empty units due to Chinese drywall contamination. She asked who would buy into a development such as Hollymeade, and how did the homes have a marketable value? Acting City Manager Morgan felt people would buy the homes at some price, over a certain amount of time, and a new market value would be established.

Councilwoman Scott inquired whether the City had considered speaking to its legislature. She was surprised that some precedent had not been set, where the builder should be held liable for this type of situation. She was surprised a policy had not already been implemented as this could not be the first time something such as this had happened.

Councilwoman McMillan felt that the matter had not come up until after the General Assembly was over, because she made the inquiry and nothing came up during this last year.

Mayor Frank stated if they were not liable on the day it happened, the legislature could not go back and make them retroactively liable.

Councilwoman McMillan understood Mayor Frank's comments about the other taxpayers, but she felt the citizens would understand the issue of tax relief for Chinese drywall residents. She understood it would be a loss in revenue for the City but, in the long run, the City Council had to do the right thing for people in the community.

Mayor Frank explained, he only meant as City Council addressed the problem in the short-term, it also had to have a view of what happened in the long-term.

Chief Deputy City Attorney Jackson pointed out, as City Council considered what other jurisdictions did, in addition to state law constraints on what value the Assessor put on the homes, they also had to consider there was a Newport News ordinance that forbid the City Manager and City Council from dictating, supervising, or controlling what the assessments were. There were limitations that controlled what City Council could do. He asked City Council to be mindful as they deliberated further on the issue.

Councilwoman McMillan inquired whether Virginia Beach had the same ordinance. Chief Deputy City Attorney Jackson replied he did not know whether Virginia Beach had such an ordinance or whether they ignored the ordinance.

Councilman Bateman indicated City Council should find out what would keep them from doing the right thing and determine whether it could be changed.

Councilwoman McMillan inquired whether it would be improper for Chief Deputy City Attorney Jackson to request what Virginia Beach based its decision on to reduce the property assessment for Chinese drywall residents to \$100. Chief Deputy City Attorney Jackson stated he would find out whether Virginia Beach had an ordinance similar to Newport News, but noted the City still had State law constraints; the Assessor was still required to assess property at fair market value.

Councilwoman Scott felt it was still necessary to get a policy into the next General Assembly, because she was sure there was more Chinese drywall out in the community.

Acting City Manager Morgan replied that the November 10, 2009 Work Session of City Council would include a review of the Legislative package, which would include a draft ordinance pertaining to Chinese drywall.

- Freight Containers

Acting City Manager Morgan stated the evening agenda included an ordinance related to freight containers. He stated City staff had been working on an ordinance that would regulate the use and storage of freight containers. He reminded the issue had gone back and forth to the Regulations Committee and Planning Commission several times. There was a need to adopt an ordinance prior to the upcoming Christmas Shopping season. He stated the containers were coming into Hampton Roads more rapidly. Some were efficient and cost effective; however, other's posed an eyesore. He noted the Schools had improved upon the storage of its freight containers.

Councilwoman McMillan recalled freight container issues dealing with big box retailers having supplies on hand, particularly during the Christmas season.

Councilwoman Scott inquired about the difference in the proposed ordinance and the previously adopted ordinance that dealt with PODs. Acting City Manager Morgan replied the proposed ordinance would regulate containers in retail areas. Retailers would be allowed to have a freight container with a permit, if located in a screened area. The ordinance would not allow the use of freight containers in residential areas, except as part of a contractor's building permit. Freight containers could not be stacked upon each other, except in a Port area.

Chief Deputy City Attorney Jackson stated a revised ordinance would be provided to City Council before the evenings meeting. A small inconsistency was discovered in the way

“temporary use” was permitted in Office and Commercial Districts, and the way containers were treated in Industrial Districts M1 and M2. The revised portion of the ordinance dealt with “temporary usage” so it did not apply in Industrial Districts M1 and M2.

Councilwoman Vick inquired whether the ordinance would alleviate a problem that she noticed on 12th Street and Ivy Avenue. She voiced concern that a huge amount of containers were piling up at the location that would shield or cover a potential crime. She feared an accident, rape or murder would take place in the area. Mr. Roach replied he had viewed the area at 12th Street and Ivy Avenue and witnessed an array of tractor trailers parked at the location. He stated tractor trailers were not regulated by the proposed freight ordinance. The only ordinance that regulated tractor trailers dealt with inoperable vehicles. Acting City Manager Morgan stated that was another issue for which there was no solution. Councilwoman Vick stated it was a safety issue.

Mayor Frank recalled, several years ago, he suggested that the City acquire or utilize a piece of land it owned to create a fenced and lighted tractor trailer park. He felt the City could charge a parking fee, which would prohibit the parking of tractor trailers off City streets.

Councilwoman McMillan recalled searching for such a location with prior City Manager Edgar Maroney. She stated they could not find a suitable location away from a residential neighborhood. One of the problems was the noise from refrigerated units, which must operate 24-hours a day.

Councilwoman Scott inquired whether the City had additional land remaining in an Industrial Park. Acting City Manager Morgan replied there was available land remaining, but building a facility to accommodate tractor trailers would be an expensive endeavor and would not be profitable. Councilwoman Scott felt it would be profitable if the City made it a legitimate truck stop for truckers to gas up and rest. Councilwoman McMillan stated it would then come back to location.

Councilwoman McMillan inquired whether the Acting City Manager had spoken with any of the major box retailers about the freight container ordinance. Acting City Manager Morgan stated the City dealt with the retailers earlier in the process.

Ms. Sheila McAllister, Assistant Director, Department of Planning, replied that retailers had improved upon the storage of freight containers since being approached about the issue.

- Lease to Virginia Hospitality Services Inc. for Golf Food Services

Acting City Manager Morgan stated the evening agenda included a public hearing regarding an agreement for a new confectioner at Deer Run Golf Club. He introduced Mr. Michael Poplawski, Director, Department of Parks, Recreation and Tourism, to answer any questions regarding the lease.

Councilwoman Scott questioned how the negotiated rent was reduced from \$2,000 per month, excluding utilities, to \$500 per month, including utilities? Mr. Poplawski replied the same way the negotiated commission increased from 3% of gross receipts to 10% of gross receipts.

Councilwoman Scott inquired about the length of the proposed lease agreement. Mr. Poplawski replied the length of the lease agreement was for three-years with one-year extensions.

Councilwoman Scott inquired whether Virginia Hospitality Services, Inc. was a local company. Mr. Poplawski replied Virginia Hospitality Services, Inc. provided food service for the City of Hampton's golf course, and was a full service food company, with a website. They also provided services to Thomas Nelson Community College.

Councilwoman McMillan inquired who would monitor the quality of the new vendor. Mr. Poplawski replied the Golf Course Advisory Committee and citizens would monitor the quality, which was part of the reason they were at this process. He stated he spoke with the current vendor, New Dominion Golf Clubs, Inc., who indicated they chose not to bid on the new lease agreement for Deer Run Grille.

Mayor Frank voiced concern about a three-year term that did not include oversight or allow the City to re-negotiate or terminate the lease should the new vendor not perform to some level of standard. He also voiced concern that the number of golfers and tournaments, that generated business for the vendors, had decreased at Deer Run. He felt time should be allotted at a Work Session to discuss the golf course, to include discussion of the dynamics, the field of competition, what would make the golf course viable, and whether there were non-City operated entities were able to operate the facility at a profit. Mayor Frank felt an informed conversation was needed if the City considered spending \$6 million to upgrade the golf course.

Councilwoman McMillan stated Deer Run Golf Club was a wonderful recreational and event facility. She felt marketing of the facility was necessary, along with the upgrades being made, and indicated City Council had not appropriated funds to adequately market the facility, the pavilion, or the club house.

Councilwoman McMillan inquired whether the vendor was responsible for reporting on the maintenance of the facility or whether it was the responsibility of the golf course manager. Mr. Poplawski hoped the vendor would report maintenance issues to the City; however, the vendor had some requirement to maintain the interior of the restaurant. The City had the responsibility of maintaining the exterior and structural requirements.

Councilwoman McMillan stated it had been a while since she visited the golf club, but noted painting was needed to the upstairs portion of the club. She inquired who maintained the upstairs portion of the golf club. Mr. Poplawski replied the City monitored the building. He advised the exterior was in poor condition and was recently painted.

Councilwoman McMillan stated there were citizens unaware of the facility and there needed to be a method to market the building. Mr. Poplawski felt the vendor would be interested in assisting with renovation of the building. He expected revenue would increase.

Councilwoman Scott inquired about the seating capacity of the upstairs area. Mr. Poplawski replied he would report back to City Council on the seating capacity.

Miscellaneous Matter

Acting City Manager Morgan recommended that City Council defer Item Number E. 2. on the evening agenda, regarding an ordinance to amend Chapter 40.1, to establish underground utilities for Middle Ground and Atkinson Boulevards. Staff had determined that the existing ordinance did not specifically include the Middle Ground Boulevard Extension project. He would refer the matter back to staff for further review.

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 5:37 P.M.

Jennifer D. Walker
Chief Deputy City Clerk

Joe S. Frank
Mayor
Presiding Officer

A true copy, teste:

City Clerk