

**MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
June 8, 2010
7:00 P.M.**

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

ABSENT: None-----0

A. Call to Order

B. Invocation

The invocation was rendered by Pastor Joe S. Evans, Genesis Christian Fellowship Church.

C. 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 Councilman Herbert H. Bateman, Jr.

Mayor Frank reminded that comments on matters germane to the business of City Council should deal with issues or topics that the City Council was empowered to address.

D. Presentations

None

E. Public Hearings

(1) Conditional Use Permit – CU-10-271, City of Newport News School Board, Communications Tower at 826 Moyer Road

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-10-271 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A COMMUNICATION TOWER/ANTENNA ON A SITE ZONED P1 PARK. This ordinance granted a conditional use permit to allow for the construction of a 135-foot communications tower on a 2,500 square foot leased portion of the 16.59 acre R. O. Nelson Elementary School property located at 826 Moyer Road and zoned P1 Park, to be located on the east side of the R. O. Nelson Elementary School property adjacent to the wooded area on the northeast side. A 150-foot buffer, along with the school building, would minimize any visual impact of the tower on the surrounding residential community. The Newport News School Board approved the land lease agreement for this location in January 2008. On May 5, 2010, the Planning Commission voted unanimously (8:0) to recommend approval of the request with conditions recommended by staff. The City Manager recommended approval.

Ms. Rachel Weaver, 73 Gresham Circle, Newport News, resident of Warwick River Estates, the neighborhood across from R. O. Nelson Elementary School, indicated the

E. Public Hearings Continued

(1) Conditional Use Permit – CU-10-271, City of Newport News School Board, Communications Tower at 826 Moyer Road Continued

residents and the parents had not been notified by the City, the School Board, nor the Communications Company, advising that a cellular tower would be located on the School's property. She stated that she only found out on Sunday, June 6, 2010, and had numerous questions. It was the resident's understanding that the School would receive money from the Communications Company and inquired whether this was to rent the property. The residents' questioned the rate of exposure to radiation, health effects to the children, and whether the vote on this matter could be deferred.

Mayor Frank responded that the matter had been advertised by the City Council, the Newport News School Board, and the Planning Commission. He advised that City Council had the power to vote in favor or against the matter, and to defer it to a later date. He assured her that other speakers would address her concerns and questions.

Ms. Weaver inquired whether the cellular tower could be relocated to the Denbigh Boating Dock and away from school grounds. She indicated the relocation would not reduce the property values of their homes; it would be away from the homes, schools and churches.

Mayor Frank replied that the applicant chose the site at R. O. Nelson Elementary School because it was the most productive site to meet technical requirements. It was Council's job to consider the application and not to suggest an alternate site, and whether to approve the application or not. He indicated the location coordinated with other locations to give coverage for cell phone users.

Ms. Weaver pointed out that there was a cellular tower behind Denbigh High School. She added that her son would be exposed to the dangers of radiation for nine years, while at school and at home. She further stated there was not enough substantial research to support whether or not there would be long-term effects to her son having been exposed to such levels of radiation.

Mr. Cameron S. Ashworth, T-Mobile customer, 12809 Tahiska Lane, Newport News, indicated that he did not receive cell phone coverage in his home. As a former pastor, he expressed concern that he could not receive important calls from his parishioners. He stated that T-Mobile offered some of the best service plans available, and was affordable to the average customer. He liked the fact that the school would obtain some revenue.

Mr. Jared Matthews, Retail Sales Associate for T-Mobile, 219 Village Parkway, Newport News, indicated that approval of the cellular tower would benefit T-Mobile and Newport News as a whole.

Mr. Michael Charnock, 72 Gresham Circle, Newport News, expressed concern for the welfare of his children. He indicated that cell phone coverage was not worth the

E. Public Hearings Continued

(1) Conditional Use Permit – CU-10-271, City of Newport News School Board, Communications Tower at 826 Moyer Road Continued

decreased property value of his home, much less the repercussions of what could happen to the children. He stated there was no conclusive research. He indicated less than one-half mile away, was a City-owned lot, which would be a better location for the cellular tower, as opposed to having it on a school site.

Reverend Cliff Manuel, 2 W. Commodore Drive, Newport News, Minister at Denbigh Christian Church, which was located directly next to R. O. Nelson Elementary School, expressed opposition to the cellular tower for this location. He indicated the Church had been approached by several phone company agents, and rejected each request. He stated the Church needed the money as much, if not more than the City, but did not feel it would be a good neighbor if they approved of the cell tower request. Reverend Manuel expressed disappointment and concern about the matter, which had been before the Planning Commission 1 – 2 years ago, and was nixed. He believed the School Board were overseers and caretakers of the children, and felt the amount of revenue received would be minuscule. He felt City Council were shepherds of the City and should be looking out for the citizens and the children. The last pristine resource was the children. He questioned taking the possibility of ruining or hurting one of the last pristine resources in the City. He urged City Council to deny the request to construct a cell tower on the R. O. Elementary School property, located at 826 Moyer Road.

Mr. Aaron Garcia, Development Manager for T-Mobile, 324 Madison Mews, Norfolk, advised that the application to construct a communications tower had been in the works for over two years. As a company, T-Mobile was not in the business of building and owning cellular towers as it was a large expense. They typically look for a co-location or other site, which was the easiest path. The site at 826 Moyer Road was a last resort site as there was nothing else in the area. T-Mobile provided public notice and did have a community meeting with the adjacent landlords in the vicinity of the R. O. Nelson Elementary School to involve the neighbors. Mr. Garcia addressed exposure, stating cell tower technology had been in existence since the 1950's or 1960's, and the Federal Communication Commission ruled there was no harm. T-Mobile was a federally licensed carrier, and must provide reports on every site as far as exposure. Mr. Garcia advised that T-Mobile had explored other sites, including the boat ramp area, but the City would not allow this use. The School property was the next properly zoned area, which was the largest parcel in the area.

Ms. Lisa Murphy, Attorney for T-Mobile, LeClair Ryan, 283 Constitution Drive, Virginia Beach, stated that nearly 23% of Americans were wireless only in their homes, meaning carriers must get into the neighborhoods to provide coverage. She advised there was a fair amount of study and work done by the Planning Commission and surrounding jurisdictions. In comparison with surrounding jurisdictions, the City of Hampton approved 19 elementary schools, 4 middle and high schools; York County had approved 4 elementary schools, and 5 middle and high schools. She compared the communications tower with that of two-way radio communications, similar to radio communications with common devices such as AM and FM radio, television, wireless routers, cordless telephones and baby monitors. She reminded that the World Health Organization reported there was no indication that there were adverse affects.

E. Public Hearings Continued

- (1) Conditional Use Permit – CU-10-271, City of Newport News School Board, Communications Tower at 826 Moyer Road Continued

Ms. Murphy stated the tower was fully compliant with all federal requirements, and T-Mobile would continue to report each year, with an annual inspection, that the facility was fully compliant with federal law. She indicated the facility met the requirements of the Comprehensive Plan, the Zoning Ordinance, and was recommended for approval by the Planning Commission and the City Manager. She respectfully requested that City Council approve the application to construct a cell tower on the R. O. Elementary School property, located at 826 Moyer Road (A copy of Ms. Murphy's presentation is attached and made a part of these minutes).

Mr. Wesley Ashworth, Manager for T-Mobile, 12266-C Jefferson Avenue, Newport News, presented a petition signed by customers in support of the conditional use permit to allow T-Mobile to construct a 135-foot communications tower with flush mounted antennas at R. O. Nelson Elementary School, located at 826 Moyer Road (A copy of the petition is attached and made a part of these minutes).

Mr. Otis Humphreys, Market Manager for T-Mobile, 721 Harpersville Road, Newport News, indicated that lack of coverage was a major complaint received from T-Mobile customers. Coverage was most important to customers. T-Mobile was competitive and lived by a very stringent set of values, putting customers above all else. Mr. Humphreys indicated that T-Mobile strived to provide a better level of customer service and urged that City Council approve the conditional use permit to allow T-Mobile to construct a 135-foot communication tower with flush mounted antennas at R. O. Nelson Elementary School, located at 826 Moyer Road.

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

Vote on Roll Call:

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

Nays: None

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

Councilwoman Scott inquired about the boat ramp area not being an option for the tower. City Manager Morgan responded that he was aware that the boat ramp area was looked at, but was unaware of the reason why it was not an option. He suspected the reason the boat ramp area was not an option was due to parking being limited for boat ramp use. A tower would consume a moderate amount of what was not a large amount of a water front parcel.

Councilwoman Woodbury found it strange that the Planning Commission withdrew the proposal two years ago. She empathized with the speaker who had only recently found out about the request to construct a tower at R. O. Nelson Elementary School, located at

E. Public Hearings Continued

- (1) Conditional Use Permit – CU-10-271, City of Newport News School Board, Communications Tower at 826 Moyer Road Continued

826 Moyer Road. The only public hearings had been held for the Planning Commission and for the June 8, 2010 Regular Meeting of City Council.

Vote on Roll Call:

Ayes: Bateman, Frank, Whitaker

Nays: McMillan, Scott, Vick, Woodbury

F. Consent Agenda

Councilwoman Scott moved adoption of the Consent Agenda, Items 1 and 4, as shown below; seconded by Vice Mayor Whitaker.

- (1) Minutes of the Work Session of May 25, 2010

Vote on Roll Call:

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

Nays: None

- (2) Minutes of the Regular Meeting of May 25, 2010

Vote on Roll Call:

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

Nays: None

- (3) Special Resolution Canceling Second City Council Meetings in July, August, and December 2010

A SPECIAL RESOLUTION CANCELING THE REGULAR COUNCIL MEETINGS OF JULY 27, 2010, AUGUST 24, 2010 AND DECEMBER 28, 2010. This resolution cancelled the Regular City Council Meetings of July 27, 2010, August 24, 2010, and December 28, 2010. Cancellation of the second regularly scheduled meetings in July and August was consistent with previous years in which City Council met only once during those months to accommodate summer vacation schedules. Cancellation of the second meeting in December accommodated holiday vacation schedules. This action allowed staff time to schedule pending items for upcoming meeting agendas and accommodate the advertising and notification requirements for certain items of business. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

F. Consent Agenda Continued

- (4) Resolution Approving an Amendment to the Charter for Membership to the USS Newport News Liaison Committee

A RESOLUTION AMENDING RESOLUTION NO. 6703-91, WHICH ESTABLISHED THE USS NEWPORT NEWS LIAISON COMMITTEE. This resolution authorized a change in the composition and voting ability of the membership of the USS Newport News Liaison Committee. This amendment was requested by the Committee and allowed the Committee to change its bylaws to reflect an increase in its voting membership, and allowed the members to be appointed as Citizens-at-Large. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

G. Other City Council Actions

- (1) Resolution Approving an Appropriation of \$3,963,215 for the Richneck Road Phase I Improvements Project

A RESOLUTION APPROPRIATING FUNDS FROM FY 2010 BONDS AUTHORIZED AND UNISSUED (\$2,668,295.00) AND STATE REVENUE SHARING PROGRAM (\$1,294,920.00) TO RICHNECK ROAD IMPROVEMENTS. This resolution appropriated \$1,294,920.00 of State Revenue Sharing Funds and \$2,668,295.00 from the FY 2010 Bond Authorization for a total of \$3,963,215.00 for the Richneck Road Phase I Improvements Project. Richneck Road had a narrow pavement section with ditches on both sides, which was hazardous to travelers. The planned improvements would provide a safer roadway for vehicular traffic, sidewalk for pedestrians, and storm sewer for drainage. Construction was expected to be completed by November 2011. The City was awarded \$1,294,920.00 in State Revenue Sharing Program funds. Funding in the amount of \$2,668,295.00 was made available from the FY 2010 Bond Authorization. The proposed total appropriation of \$3,963,215.00 covered the construction, Virginia Department of Transportation (VDOT) construction oversight costs, plus a 10% contingency.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

G. Other City Council Actions Continued

- (2) Motion Approving an Award of Bid to E. V. Williams, Inc., for the Richneck Road Phase I Improvements Project

Councilwoman McMillan moved to award the bid for the Richneck Road Phase I Improvements Project to E. V. Williams, Inc.; seconded by Vice Mayor Whitaker. Seven bids were received for this project. E. V. Williams, Inc., was the low bidder on this project at \$3,581,148.76. E. V. Williams, Inc. had successfully completed similar projects for the City and was recommended for award of the project. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (3) Resolution Approving the City to become a Member of the Virginia Department of Transportation (VDOT) Urban Construction Initiative (UCI) and Authorizing the City Manager to Execute Such Agreements

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS TO JOIN THE URBAN CONSTRUCTION INITIATIVE (“UCI”). This resolution authorized the City of Newport News to become a member of VDOT’s Urban Construction Initiative (UCI) and authorized the City Manager to execute such agreements as necessary. Historically, VDOT had been the administrator of transportation improvement projects using Federal and State funds within the City and only with special projects had the City requested, by resolution to VDOT, the authority to administer these types of projects. It was believed, eventually, VDOT would require the City to take over the administration of all projects and would take more of an oversight role, along with coordination with the Federal Highway Administration (FHA). It was believed, with VDOT’s assistance and guidance, the City of Newport News could transition into the complete administration of these types of funded projects: urban, highway safety improvement program, Congestion Mitigation and Air Quality (CMAQ), Regional Surface Transportation Program (RSTP), Enhancement and National Highway System (NHS). With experience, the City of Newport News would become UCI Certified, a more streamlined project and program process, a higher status than just a UCI participating locality. There was no fiscal impact to this action, but the City would be required to front fund all projects, which was generally not a problem with smaller projects, but may add some difficulty with larger projects. The City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

H. Appropriations

Vice Mayor Whitaker moved adoption of Appropriations Item 1 and 2, as shown below; seconded by Councilman Bateman.

- (1) Department of Engineering – 2009 Virginia Revolving Loan Fund (VRLF) for Roanoke Avenue Sanitary Sewer Rehabilitation Phase IV and Pump Station 37 Replacement Project

A RESOLUTION APPROPRIATING FUNDS FROM 2009 VIRGINIA REVOLVING LOAN FUND (\$356,000.00) TO ROANOKE AVENUE SANITARY SEWER, PHASE IV (\$106,000.00) AND PUMP STATION NO. 37 (\$250,000.00). This resolution appropriated \$356,000.00 from the 2009 Virginia Revolving Loan Fund (VRLF) for the design of Roanoke Avenue Phase IV and Pump Station No. 37 Replacement Project. Roanoke Avenue Sanitary Sewer, Phase IV design efforts would correct deficiencies in the sanitary sewer pipe between 22nd Street and 37th Street. The project proposed design of a resin liner to be installed in the existing sanitary sewer pipe to prevent further pipe failures and sewage infiltration in the area. The engineers estimated the cost for design was \$106,000.00. Pump Station 37, located at 13705 Warwick Boulevard, was in need of replacement, as it was undersized and unable to meet future flow requirements. The proposed cost for design was estimated at \$250,000.00. The proposed appropriation of \$356,000.00 from the City's 2009 Virginia Revolving Loan Fund (VRLF) covered design costs associated with the Roanoke Avenue Sanitary Sewer Rehabilitation Phase IV and the Pump Station 37 Replacement Project. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

- (2) Department of Engineering – 2009 American Recovery and Reinvestment Act (ARRA) for the Citywide Signal System Upgrade Project

A RESOLUTION APPROPRIATING FUNDS FROM FEDERAL REVENUE AMERICAN RECOVERY & REINVESTMENT ACT CITYWIDE SIGNAL SYSTEM UPGRADE (\$1,050,000.00) TO ARRA – CITYWIDE SIGNAL SYSTEM UPGRADE (\$1,050,000.00). This resolution appropriated \$1,050,000.00 from the American Recovery and Reinvestment Act (ARRA) of 2009 Citywide Signal System Upgrade Traffic Signals Project. This was an ARRA funded project. This project would select the signal system hardware and software, and provide integration services. This project improved the City's ability to adjust signal timing and respond to special conditions at locations throughout the City. Funding was 100% reimbursable from Federal funds through the Virginia Department of Transportation (VDOT). The City was responsible for front funding the project until it was complete and Federal reimbursements were received. There was no direct cost to the City other than the staff time to administer the project. The City Manager recommended approval.

(No registered speakers)

H. Appropriations Continued

- (2) Department of Engineering – 2009 American Recovery and Reinvestment Act (ARRA) for the Citywide Signal System Upgrade Project

Councilwoman Vick inquired about the number of traffic signals that could be adjusted with this appropriation. City Manager Morgan replied the work would not be directed at particular signals, but was a system wide upgrade. Through fiber optics, the servers in the signal cabinets would be upgraded to allow traffic operation to more quickly change signal timing from remote locations. He advised this action was only a technology upgrade.

Councilman Bateman asked that staff look at the duration of the signals on Warwick Boulevard to ensure they were timed appropriately, particularly in view of the fact the project was just completed. He was hopeful the timing could be adjusted since some of the small businesses on Warwick Boulevard had been affected by the traffic signals and the amount of time it takes to turn, make u-turns, or get back to some of the establishments.

Councilwoman McMillan indicated that the cost for a mast arm traffic signal, at one time was approximately \$250,000.00. She inquired whether the figure still held true. Mr. Everett Skipper, Director, Department of Engineering, confirmed that the cost for a mast arm traffic signal was approximately \$250,000.00.

Councilwoman Vick expressed concern about the timing of the pedestrian crossing at the traffic signal at Main Street, which had a malfunction. She inquired whether this technology upgrade would assist the Main Street traffic signal. Mr. Skipper stated the project before Council changed the equipment and the software at the various traffic signals throughout the City, covering approximately 250 signals, giving greater capability to make changes. The timing of the signals was a different type of project, done every 2-3 years. He stated there were federal standards for pedestrian crossings and he would look into the situation.

Councilman Bateman inquired about the VDOT project at Warwick Boulevard, and whether a requirement was in the contract that the timing was straight prior to the project being turned over to the City. Mr. Skipper responded no, VDOT was required to put in the equipment to match the City's system that allowed the changes to be made, but the City would be responsible for adjusting the timing. Councilman Bateman inquired about adjustments to the speed limit along Warwick Boulevard. Mr. Skipper replied the speed limit was 35 mph in the area of Warwick Boulevard that was widened, from J. Clyde Morris Boulevard to Glendale; and 45 mph from Glendale north to Nettles Drive.

Vote on Roll Call:

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

Nays: None

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

Ms. Gloria Deloatch, 700 Waterfront Circle, Newport News, expressed support

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

for the proposed Walmart project, which brought great economic opportunities, such as jobs, medicine, etc. She indicated she would like to see progress for the Southeast community. Small businesses were needed, but redevelopment was needed as well. Ms. Deloatch asked the City Council give consideration to methods for attracting businesses to the Southeast community.

Ms. Deloatch congratulated Mayor-Elect Price on his election as Mayor, and Council members Bateman, Whitaker and Scott on their recent re-election.

Ms. Kimberly L. Winn, P. O. Box 2216, Newport News, thanked members of City Council for their hard work. She advocated longer hours of operation for the West Avenue Library. She indicated the West Avenue Library should be open during the same hours as other branches. Children utilized the branch, along with community people, and members of the military. She shared the historical value of the West Avenue Library, which was the only library in the State of Virginia that was listed in the Book of National Historical Libraries. She reiterated there was a great need for the West Avenue Library in the downtown area.

Mr. Julian R. Scott, 2410 West Avenue, Newport News, commented on the proposed Walmart project and alleged improvements to assist with traffic conditions in the area. He presented a petition signed by Newport News residents, who would like to have bus and bike lanes on both sides of Jefferson Avenue to assist citizens to get to the Walmart (a copy of the petition is attached and made a part of these minutes).

Councilwoman McMillan asked whether Mr. Scott was suggesting a bus stop or a pull-over lane at a bus stop. Mr. Scott explained that he would like to see a bus lane, a lane specifically for buses and bikes. He suggested that vehicles be fined when in violation.

J. New Business and Councilmember Comments

Councilwoman McMillan wished a Happy Anniversary to her colleague, Dr. Patricia Woodbury and her husband, Mr. Gerard Woodbury, who celebrated their 51st Wedding Anniversary on June 20, 2010.

Councilwoman Scott wished Councilwoman Woodbury and her husband Gerard, a Happy Anniversary.

Councilwoman Scott announced that the North District Town Hall Meeting would reconvene on Monday, June 21, 2010, at 7:00 p.m., at American Legion Post 368. There would be no guest speaker, but open discussion, to talk about needs and desires for the North District.

Councilwoman Vick wanted to expound on her vote against the Conditional Use Permit to allow the construction of a 135-foot communications tower with flush mounted antennas at R. O. Nelson Elementary School, located at 826 Moyer Road. She recalled the vote against the cellular tower at Magruder Elementary School. She felt that the City should show that the children were important across the entire City. She would have felt bad had the Council

J. New Business and Councilmember Comments Continued

denied one cellular tower in the community because the citizens were against it; and voted for it in another community.

Councilwoman Vick wished a Happy 50th Anniversary to her mentor, Mr. Robert Ayres and his wife, Martha Ayres.

Councilwoman Woodbury reported about her Town Hall Meeting held in conjunction with School Board member, Ms. Betty Dixon, on Monday, June 7, 2010. The newly elected School Board representative from the North District, Ms. Priscillia Burnett, was in attendance. Councilwoman Woodbury announced that she and Ms. Dixon would not hold their Town Hall Meetings during the summer months, but would resume in September.

K. Adjourn

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 7:59 P.M.

Mabel Washington Jenkins, MMC
City Clerk

Joe S. Frank
Mayor
Presiding Officer

A true copy, teste:

City Clerk