

MINUTES OF WORK SESSION  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE 10<sup>th</sup> FLOOR CONFERENCE ROOM  
2400 Washington Avenue  
June 22, 2010  
4:00 p.m.

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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: Mayor-Elect McKinley L. Price, DDS; Neil Morgan; Stuart Katz; Mabel Washington Jenkins; Cynthia Rohlf; Alan Archer; Cleder Jones; Collins Owens; Wanda Pierre; Everett Skipper; Florence Kingston; Sheila McAllister; Douglas Winstead; Michael King; Chief James Fox; Lieutenant Michael Hudgins; Lisa Cipriano; Harold Roach; Michael Nall; Christine Mignogna; Brian Witt; Shannon Manning; John Roberts; Edgar Maroney; Lewis McMurrans, III; Ben Williams; Jonathan Skinner; Lewis McMurrans, Jr.; Kenneth Powell; Joe Lawlor; Dan Curran; and Jennifer Walker

I. Huntington CDA Project

Mr. Neil Morgan, City Manager, reminded in June 2007, the City of Newport News and York County participated in a boundary line adjustment for land located north of Denbigh Boulevard, south of Richneck Road, east of the Colony Pines subdivision and west of the Newport News-York County line. On February 26, 2008, City Council passed Ordinance No. 6457-08 to rezone 220.7987 acres of land, including land gained from the boundary line adjustment. The rezoning of land from R1 Single Family Dwelling District to R9 Mixed Use District, with a Neotraditional Overlay District, was initiated to accommodate a mixed-use development, known as Huntington Pointe, by McCale Development Corporation and the McMurrans Family Limited Partnership. He introduced Mr. Lewis McMurrans to report on the project.

Mr. McMurrans reported a significant element of the Huntington development project would be the design and construction of a two-mile-long, four-lane divided arterial street with a landscaped median running in a northerly direction, between Denbigh Boulevard and Fort Eustis Boulevard, to be known as Independence Boulevard. He assembled a financial team to prepare bond projections and a Fiscal Impact Analysis. The bond projections and analysis indicated that a Community Development Authority/Tax Increment Financing (CDA/TIF) using 65% of incremental real estate tax revenues would cover the debt service on a 20-year CDA bond, where bond proceeds of \$26 million would be used to fund Independence Boulevard, improvements to Richneck Road, stormwater management facilities in Stoney Run, parks, trails, and other public amenities. He introduced Mr. Ed Maroney, member of the development team, to provide comments on the project.

Mr. Maroney complimented staff of the Departments of Development, Planning, Parks, Recreation and Tourism, and Engineering, on their due diligence for the proposed Huntington project. He indicated he provided staff with copies of the Market Analysis by Zimmerman/Volk Associates and a Retail Marketing Analysis by H. Blount Hunter Retail and Real Estate Company. He introduced Mr. Ken Powell, Attorney, Stone & Youngberg, to explain tax increment financing.

Mr. Powell stated he had worked with CDAs for the last 18 years and managed his first project in 1998 for the Dulles Town Center in Dulles, Virginia. He explained a CDA allowed an entity to issue bonds for certain types of infrastructure. CDAs were authorized by a City Council and had the power to finance, fund, establish, acquire, construct, equip, operate and maintain infrastructure improvements. CDAs were authorized to provide special services and were repaid in one of three ways: 1) Assessments, by taking the amount of debt service from the bonds divided among the property; 2) TIF, by taking a certain percentage of new taxes, not the existing tax base, and given to trustee to pay debt service of the bonds. One never came out of pocket; but only paid the percentage agreed upon. The developer would have to pay the shortfall if one should arise; and 3) Combination of TIF, backed up with an assessment. The debt or obligation of the CDA was not the debt or obligation of the City, and would not affect its debt capacity.

Mr. Powell reported TIF was done in Virginia by agreement where the following revenue sources were used: 1) Real estate taxes; 2) Sales taxes; 3) Food/Beverage taxes; 4) Occupancy taxes; 5) Utility taxes; 6) Earning taxes; 7) Capital taxes; 8) Connection fees; 9) Usage fees; 10) Special assessments; and 11) Parking fees. Any stream of revenue that was generated from a project being built could be used.

Councilwoman McMillan inquired about the value the base year assessment was calculated on. Mr. Powell replied the value was decided by a City Council in the adoption of an ordinance. City Attorney Katz replied City Council would negotiate the value with the petitioners for the CDA.

Councilwoman McMillan understood there was a set amount the City would receive from the project, which was the base year assessment. The current assessment would be unpredictable and, if it fell short, the developer would have to pay. Mr. Powell replied that was correct. Mayor Frank explained that the City would receive a portion of the incremental value. The developer only received a negotiated percentage of the overage; not 100%.

Councilwoman McMillan did not want the Newport News to get caught in the same situation as Hampton by not being transparent. Mr. Powell stated the developer was diligent in sitting down with the press to explain the process as related to the Hampton project.

Councilwoman McMillan inquired whether a disclosure would be included in a buyer's contract noting they were located in a CDA establishment. Mr. Powell replied no disclosure would be included in the contract of a buyer because no lien or liability would be assessed against their property. The portion of the debt allocated to a piece of property would be paid off at closing, through one's loan. One would never know that there was a lien on the property, and the buyer would receive a title free of liens. Ms. Florence Kingston, Director, Department of Development, stated the same would not apply to commercial properties in a CDA.

Mayor Frank inquired whether a bond holder who owned property in a CDA would be bound by the development agreement if the revenue dried up and the developer could not meet the debt payments. City Attorney Katz replied the developer was bound by the underlying zoning, which were proffered conditions proposed to City Council in 2007 by Mr. McMurrin. Mayor Frank understood the developer had no unilateral right to not develop the project as proposed and approved, but could request a revision. Mr. Powell agreed the developer could request a revision; however, such would tie up the project.

Councilwoman Scott inquired about the percentage above the base the City would receive. Mr. Powell replied the percentage depended upon the improvements; however, a 2% growth was generally projected, along with all the overages.

Councilwoman Woodbury inquired who would provide oversight of the CDA. Mr. Powell replied oversight would be provided by a five member board appointed by City Council.

City Attorney Katz pointed out that the 2007 Agreement between the City and developer noted the developer would build the road at its expense. In the concept of law, this infrastructure met the model of a CDA, which was a separate legal entity that had the authority to issue bonds. In 2005, the rating agencies (Moody's and Standards and Poor's) defined that CDA debt was not an obligation for a locality, so the City would have no bailout responsibility for a struggling or failed CDA. In March 2006, the City Council approved, by resolution, guidelines for the creation of a CDA. The purpose of the guideline was to establish a general policy in order that land owners would have access to general regulations and procedures applicable to the creation of CDAs within the City. The resolution also noted that public improvements undertaken by a CDA would be funded from bonds issued by the CDA. The City would have no financial liability for CDA bonds and have no moral or legal obligation to support the debt of the CDA. If City Council supported the creation of a CDA and authorized TIF for the Huntington community, there would be subsequent matters to address to include: 1) a Memorandum of Understanding, summarizing the commitments of the CDA, which was a three-party agreement between the CDA, the developer and the City; 2) Advertise and hold a public hearing to create TIF; and 3) Determine the language in the 2007 agreement between McCale Development and the City that indicated the road would be built at the developer's sole cost and whether the proffered conditions in the 2008 conditional zoning application were affected.

City Manager Morgan advised he contacted the City's financial advisor to request a review of the project. The City's financial advisor reported the existing CDA policy was strong and well-written, which provided a comfort level with the proposed project.

Ms. Kingston reported the City would get Independence Boulevard built, along with the public amenities for a trail, and the regional BMP, by doing the CDA/TIF now. All of the infrastructure would be in place before construction of the single-family and multi-family development. The regional BMP was important to ensure a quality living environment. The new trail system enhanced the quality of life for the residents. The Huntington community would have sustainable density and energy efficiencies. The TIF would leave the City in an immediate positive position.

Ms. Kingston advised staff had been working with the developer and noted the fiscal impact analysis of the project. She stated the analysis would be a part of the CDA application. Staff had worked beforehand to ensure the analysis matched the market study and to digest and negotiate the tax increment to be used to support the project. Included with the CDA application would be a detailed analysis that noted project phasing, projections of tax and fee revenues that would come to the City, along with the estimated expenses derived from the development that would add to the burden of City services and how such tax and fee revenue would cover increased costs.

City Manager Morgan replied to Councilwoman Scott's inquiry that 65% of real estate taxes from the development would be the percentage above the base the City would receive to support the debt service.

Councilwoman McMillan inquired whether the base would remain constant. Ms. Kingston replied the City would receive the base, plus 35% of the new tax increment generated by the project. Mayor Frank replied the base rate would remain the same unless the real estate tax rate was adjusted.

Councilwoman McMillan inquired whether the Code of Virginia specified how much real estate taxes could be increased under a CDA. City Attorney Katz felt there would not be any special assessments in the proposed CDA for Huntington. The tax revenue would cover the debt service of the public improvements.

Ms. Kingston stated the CDA for the Huntington community was a simple model that took one revenue source where all or any back-up assessments went to the developer rather than the residential property owners. The fact that the developer would be responsible for any shortfall was an important component of the project. Additional revenue would be generated by the project to include personal property taxes, sales and meals taxes, BPOL taxes, building permit fees, subdivision fees, and Stormwater fees. (A copy of the presentation, "City of

Newport News, City Council Work Session, Huntington Community Development Authority, June 22, 2010,” is attached and made a part of these minutes.)

City Manager Morgan explained the project was beneficial to the City. He stated the worst thing that could happen was that the City would gain the infrastructure without cost or debt.

Councilwoman Scott noted that the City Manager’s memo (attached to these minutes) indicated that there would be an allocation to the school system. She inquired whether the allocation was automatic or whether it was predicated on the fact that there would be an impact over and above what the City experienced. Mayor Frank stated the funding was committed and estimated based on impact. Ms. Kingston replied the developer had to pay over and above any increase in student enrollment.

City Manager Morgan inquired whether City Council was comfortable with having staff move forward with the project.

Vice Mayor Whitaker indicated the Huntington project was one of the best he had seen and felt it was well thought out. He was encouraged that the project included multi-family housing.

Councilwoman McMillan stated she had the original conceptual project and inquired about the revisions to the project. Mr. McMurrin replied he offered a new plan with the same or less density and had retained another architect. He stated the project was well diversified and the price points ranged from \$170,000 to \$400,000, with square footage ranging from 1,600 to 2,400 square feet, with 600 square feet of brick on the front exterior.

Councilwoman Vick inquired about public hearings and meetings held for the adjacent property owners who would be affected by the Huntington community. City Manager Morgan replied public hearings and meetings had already been held regarding the Huntington community; however, Public Hearings had to be advertised regarding the financing for the project.

There was consensus among City Council to proceed with the Huntington community project.

## II. Briefing on Community Maintenance Initiative

City Manager Morgan introduced Ms. Cindy Rohlf, Assistant City Manager, to lead the briefing on community maintenance. He stated staff came up with community maintenance to describe small initiatives that would improve the appearance of neighborhoods, along with the quality of life for all citizens.

Ms. Rohlf reminded that City Council was briefed in January 2010 on the effort of staff to create a multi-departmental team to work on the City's community maintenance. City departments involved in the effort included the City Attorney's office, the Departments of Codes Compliance, Public Works, and Development, the Police Department, and the City Farm. Recent community maintenance accomplishments included: 1) Citywide Neighborhood Cleanup – March 2010; and 2) Enhanced Grass/Weed Cutting and Trash Removal on City-Owned Vacant Properties.

Councilwoman Vick applauded staff on the publicity of the Citywide Neighborhood Cleanup with regard to door-to-door marketing.

Councilwoman McMillan inquired about resources used for the enhanced grass/weed cutting initiative since City personnel was limited. Ms. Rohlf replied resources used included hard working Codes Compliance personnel, with assistance from an intern in the City Manager's office. She stated City employees were doing more with less.

Councilwoman McMillan inquired whether there were plans to address the issue of weeds that were growing between the concrete at Patrick Henry Mall and in the median strips and in the sidewalks along Denbigh Boulevard. City Manager Morgan replied the City had a limited capacity of trained personnel who took care of such matters. He indicated he would make it a priority.

Ms. Rohlf noted future community initiatives included 1) Neighborhood Cleanup in the fall of 2010; 2) Corridor Gateway Improvements; 3) Enhancement of Residential/Commercial Tax Abatement Programs; 4) Utilization of Resources – Weekend Code Enforcement; 5) Establishment of a Rental Inspection Program; 6) Opportunities to Engage Non-Profit/Religious Entities to Assist Indigent Property Owners; 7) Adoption of an Ordinance to Utilize State Code 53.1-129, Use of Prison Labor to Rehabilitate Qualifying Properties; 8) Consider Removing Weed/Trash & Debris Violations as Civil Offenses; and 9) Disposition of Vacant City Lots.

Councilwoman Woodbury stated the benches and trash cans that lined Warwick Boulevard were wonderful and inquired when such would be expanded to other parts of the City. Mr. Morgan replied the issue was discussed in a meeting with Mr. Shucet of Hampton Roads Transit. He challenged Mr. Shucet to offer help from HRT in the area of trash and litter at bus stops. The City Farm temporarily emptied trash cans and as of July 1, 2010, the Department of Parks, Recreation and Tourism would include trash pick-up in its landscape and litter contract.

Vice Mayor Whitaker felt the City and HRT needed to work together to keep the bus areas clean. City Manager Morgan suggested researching a proposal to have private property owners, adjacent to bus stops, help keep bus areas clean.

Councilwoman Woodbury asked that the trash pick-up issue be included as future initiative 10. City Manager Morgan stated he would add the need for trash pick-up as a future initiative 10.

Councilwoman Vick suggested that more be done about litter located at the corner of 16<sup>th</sup> Street and Ivy Avenue.

Councilwoman McMillan noted, in HRT's defense, and at her request, four years ago, HRT had put four trash receptacles out at the cost of \$400 each and two were stolen.

Ms. Rohlf stated the most important community maintenance initiatives in progress included: 1) Adoption of an Ordinance to Utilize the State Drug Blight Law; and 2) Revisions to City Code Section 13-28, Demolition of Unsafe Buildings/Structures, to clarify local Authority over Unsafe Structures. She stated the City Attorney's office had worked with staff to do a comprehensive review of existing ordinances and the State Code to determine what if anything could be done to strengthen ordinances or adopt new enabling legislation. The biggest issue was the removal of blighted properties and derelict structures which were not easy to handle from an enforcement standpoint. She introduced Mr. James Fox, Police Chief, to report on the proposed ordinance to utilize the State Drug Blight Law.

Chief Fox stated community clean-up was a part of community maintenance, which helped reduce crime. He stated crime decreased when people felt better about their neighborhoods. Chief Fox stated bawdy places and drug blight were present in Newport News in rental properties, multi-family housing and boarding houses. Newport News had a prostitution problem which was part of community maintenance. He sent warning letters to property owners who had numerous incidents of drug activity requesting that they clean-up their premises. The proposed ordinance would require the City to send a message to property owners asking that they clean-up their drug infested properties, and if not, the City would deal with the issue. He introduced Lieutenant Michael Hudgins, Organized Crime Division, Newport News Police Department, to report on the proposed ordinance to utilize the State Drug Blight Law.

Lt. Hudgins stated the ordinance would address problems of properties with chronic drug issues. He stated staff was looking for a long-term fix to drug blight. (A copy of the proposed ordinance is attached and made a part of these minutes.)

Ms. Rohlf introduced Ms. Shannon Manning, Assistant City Attorney, City Attorney's office, to explain the City's legal authority as related to City Code Section 13-28, Demolition of Unsafe Building Structures. (A copy of the ordinance is attached and made a part of these minutes.)

Ms. Manning recommended that the City amend its ordinance to mimic State legislation regarding the demolition of unsafe building structures. She stated the proposed

ordinance would allow the City to deal with building structures that may endanger public health and safety.

Mayor Frank inquired whether a use that threatened public health and safety was a reason to demolish a structure or whether it was simply due to a dangerous condition. City Attorney Katz replied the City could not use the proposed ordinance to declare a structure unsafe due to drug activity.

Councilwoman Woodbury inquired whether the proposed legislation would help in situations of unfinished construction projects that were on hold for a number of years. Ms. Manning replied that the proposed ordinance would help.

City Manager Morgan stated staff was trying to be more aggressive on the basic law about structures.


Vice Mayor Whitaker stated he received many calls about structures in the Southeast Community that had been boarded up for ten or more years. He stated such structures could not be demolished unless they were structurally unsound. City Manager Morgan stated the proposed ordinance would provide the City an opportunity to deal with such issues.

Ms. Rohlf stated the City would focus more focus on enforcement priorities to deal with unsafe structures, blighted properties, and illegal land uses. She stated, since 1990, the City had demolished 478 unsafe structures.

Councilwoman Vick inquired about what could be done, if anything, before a property got to the point of no return. City Manager Morgan replied that the proposed initiatives would help.

Ms. Rohlf stated there were no quick fixes or easy answers regarding unsafe structures, blighted properties, or illegal land uses. She stated the creation of a Blighted Property Task Force would be crucial to the initiative. The Task Force would include representatives from the City Manager's Office, the City Attorney's Office, the Department of Codes Compliance, and the Police, Fire and Health Departments. (A copy of the presentation, "Community Maintenance Effort," is attached and made a part of these minutes.)

THERE BEING NO FURTHER BUSINESS,  
ON MOTION, COUNCIL ADJOURNED AT 4:48 P.M.

  
Jennifer D. Walker, CMC  
Chief Deputy City Clerk

Joe S. Frank  
Mayor  
Presiding Officer