

MINUTES OF WORK SESSION  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE 10<sup>th</sup> FLOOR CONFERENCE ROOM  
2400 Washington Avenue  
February 9, 2010  
3:30 p.m.

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

ABSENT: None ----- 0

OTHERS PRESENT: Neil Morgan; Stuart Katz; Mabel Washington Jenkins; Alan Archer;  
Cynthia Rohlf; Allen Jackson; Wanda Pierre; H. Reed Fowler; Everett Skipper; Brian Ramaley;  
W. Scott Dewhirst; Florence Kingston; Joe Lawlor; Cleder Jones; Kim Lee; and Jennifer Walker

I. Community Maintenance

Mr. Neil Morgan, Acting City Manager, introduced Ms. Cindy Rohlf, Assistant City Manager, to report on a Community Maintenance initiative planned for March 2010.

Ms. Rohlf stated, at the January 12, 2010 Work Session of City Council, staff provided a presentation regarding community maintenance initiatives that would be implemented over time, to begin with a Community Clean-up program in March 2010. Ms. Rohlf reported the following City departments were involved in the Community Clean-up program: 1) Public Works; 2) Codes Compliance; and the 3) City Farm. She stated the Department of Public Works had agreed to lead the effort. She introduced Mr. H. Reed Fowler, Director, Department of Public Works, to report on the Community Clean-up program, which was the first initiative of the Community Maintenance program.

Mr. Fowler stated the Community Clean-up program, scheduled for March 2010, was similar to programs held in 2003 and 2005. He stated Community Clean-up collections would coincide with a citizen's regular collection day, i.e. if one's collection day fell on a Monday, they would participate in the first Community Clean-up scheduled for Saturday, March 6, 2010.

Mr. Fowler reported various City departments were engaged in the effort, and were a subset of the Community Maintenance Team. The team planned to focus efforts in residential areas and vacant lots. Residents, except those needing assistance, would be asked to bring waste to the curb. Assistance was available for elderly and disabled citizens to haul waste from their yard to the curb. There would be no limit on volume; however, there were rules regarding hazardous waste and ineligible collectible items. The Community Clean-up program would be accomplished through publicity. (A copy of the presentation, "2010 Community Wide Cleanup," was attached and made a part of these minutes.)

Councilwoman McMillan inquired whether there was a way, in conjunction with the publicity for the Community Clean-up, to sponsor an info-commercial on the Adopt-a-Spot program on the City's television channel. Ms. Kim Lee, Coordinator of Public Information/Media Relations, replied that the information would be televised on the City's channel.

Acting City Manager Morgan inquired about the possibility of extending the Community Clean-up program, on a quarterly basis, with existing resources, should the program be successful. Mr. Fowler felt it was possible for the Department of Public Works to achieve; however, he could not speak for other departments.

Mayor Frank stated old, unwanted vehicles and large appliances were problems in various neighborhoods. He felt discarding of such items needed to be addressed when planning a community clean-up. He asked Acting City Manager Morgan to look into the process of gathering unwanted vehicles and appliances from citizen's yards. Ms. Rohlf replied the Police Department and the Department of Codes Compliance were in contact with tow truck companies to rid neighborhoods of unwanted vehicles as part of the clean-up effort; however, residents had to sign paperwork for their vehicles to be taken away.

Councilwoman McMillan pointed out, companies such as Eggleston Services would pick-up vehicles at no charge. Ms. Rolfe stated vehicle title issues and stringent requirements caused such companies to opt out of picking-up vehicles from citizens.

Councilwoman McMillan inquired whether a hazardous waste pick-up date was planned to coincide with the Community Clean-up. Mr. Fowler replied that a hazardous waste pick-up day was scheduled for March 27, 2010, at Gildersleeve Middle School.

Mayor Frank inquired whether there was a call-in option for residents. Mr. Fowler replied Public Works would follow typical Solid Waste collection routes in neighborhoods; however, they were working on an arrangement for the City Farm to receive calls in advance so that they would know which homes to go to.

Mayor Frank suggested that supervisor's follow-up on the Community Clean-up program to ensure nothing was overlooked and to gain lessons to improve upon the program. Mr. Fowler replied oversight was included in the program.

Councilman Bateman inquired about cost savings should the leaf pick-up program be cancelled. Acting City Manager Morgan replied the cost savings amounted to \$100,000, which included a small amount of overtime, fuel and vehicle maintenance issues.

Acting City Manager Morgan stated he would report back to City Council on the initiative.

Mayor Frank instructed Acting City Manager Morgan to take a closer look at how the initiative was being promoted and publicized to ensure it received as much attention as possible.

## II. DEQ Consent Order Briefing

Acting City Manager Morgan reminded of the United States Environmental Protection Agency (EPA)/Virginia Department of Environmental Quality (DEQ) Consent Order process for the City's sanitary sewer system and indicated the Consent Order had hit the City and surrounding localities hard. He stated a 50% surcharge had to be included on the sanitary fee to perform all the studies and the work that was believed to be involved in the Consent Order. The City was far along in the study phase and was beginning to venture into the find-and-fix phase. There would be long-term capital projects that were the result of the studies in the future. The Department of Public Works, supported by the Department of Engineering, had taken the lead in the effort. He introduced Mr. Reed Fowler, Director, Department of Public Works, to offer a progress report on the Consent Order.

Mr. Fowler reported the City's sanitary sewer system was approximately 100 years old. He stated the system lacked capacity needed for heavier rain events, while it was adequate in dry weather. As a result, untreated waste water could be discharged into the storm system, sewer system, and finally, the James River. Sometimes the lack of wet weather capacity also led to sewage back-ups in residential homes or yards. To address these problems, the City entered into the Consent Order with HRSD and other Hampton Roads' localities.

Mr. Fowler stated the Consent Order was intended to protect the health of the environment by limiting sanitary sewer overflows and improving operations, maintenance and management of the sewer system. He stated it was initiated by the EPA and the City was under a Consent Order with the DEQ, along with all other Hampton Roads jurisdictions. HRSD was under a Consent Order with the EPA. The Consent Order had the potential for severe civil and cash penalties for non-compliance. The City had been engaged in the Consent Order timeline since 2007 and had accomplished much work, e.g. Execution of the Secure System Evacuation Study (SSES) Plan. The Departments engaged in the process included: the City Attorney, Engineering, Public Works, Information Technology, Purchasing, etc. It took a huge amount of manpower to manage the Consent Order.

Mr. Fowler noted the budget projections for the Consent Order included: 1) Initial Studies – Flow Monitoring and Report, System Modeling, SSES Plan - \$5 million; 2) SSES Field Work - \$10 million; 3) Find and Fix Defects during SSES - \$2 million/year, \$8 million

total; 4) Flow and Pressure Metering/Telemetry - \$3 million; 5) Wet Weather Management Plan - \$1 million; and 6) Construction per Wet Weather Management Plan – Up to \$200 million over an extended period. Mr. Fowler stated the first two budget projections, and part of the \$3 million for Flow and Pressure Metering/Telemetry technology, had been expended. Staff was beginning to expend “Construction per Wet Weather Management Plan” funding and most would be included in the long-term capital plan. Should problems arise in the sewer system, “Find and Fix Defects during SSES” funding would be used.

Mr. Fowler stated the Base Sewer Rate was \$1.63 per 100 cubic feet (hcf) of water usage, which paid for routine maintenance and operations, and the Surcharge fee of \$0.90 per hcf, that began in 2008 and increased in 2009, which paid for Consent-Order related issues. No increases were anticipated for Fiscal Year 2010.

Councilwoman McMillan inquired how the \$200 million that was projected for “Construction per Wet Weather Management Plan” was derived. She stated the City had been appropriating funding over the last decade for sewer rehabilitation and many sewer pipes were replaced in the Southeast community, which was the City’s oldest neighborhood. Mr. Everett Skipper, Director, Department of Engineering, replied the \$200 million was an educated guess that was based on numbers put together by the Hampton Roads Planning District Commission (HRPDC). There were other areas that had been put through the Consent Order process, i.e. the City of Baltimore. The experience of Baltimore was that they were spending about 20 times more in repairs than they were spending in sewer studies. The City of Newport News was spending approximately \$10 million in sewer studies.

Councilwoman McMillan pointed out that Newport News was a smaller municipality than Baltimore, and indicated Baltimore had a very old industrial infrastructure. Mr. Skipper agreed with Councilwoman McMillan, but indicated one of the consultant’s, in working with the City of Virginia Beach, found in areas with brand new sewer systems (less than ten years old), that they were operating below the estimated flow and had to be replaced to meet the requirements of the Consent Order. City staff was uncertain as to where the project was going and the costs involved. Originally, the HRPDC estimated a total of approximately \$1.5 billion for the region; however, when the Flow Monitoring studies were completed one year ago, the numbers led Newport News to discover that 70% of its systems needed to be studied, instead of 50% or less. Staff also did not know how much time the EPA and the DEQ would allot the City to complete construction. There had been talk of 10 and 20 years.

Councilwoman McMillan inquired whether the \$200 million was a worst case scenario.

Mayor Frank replied staff would not know whether \$200 million was a worst case scenario until they began the project.

Councilman Bateman inquired whether staff cooperated on a regional basis to form a consortium to bind strength to lock down the costs for studies that were required. Mr. Skipper replied that the studies were all contracted at this point in time and indicated part of the contracts was through cooperative arrangements with other municipalities.

Mr. Fowler stated staff had to ensure the cooperative arrangements were not against the City, because other municipalities were doing work that was not required by Newport News. Mr. Skipper agreed. He replied that the \$200 million was an estimate, and indicated final cost would be known upon the completion of the SSES Plan by November 2012.

Councilwoman Scott inquired whether some of the sewers had to be replaced rather than repaired. Mr. Skipper replied staff was trying to prevent the flow of water into the sewer system, because HRSD did not have the capacity to treat it. Staff was studying failures in the system and once studies were completed would enter into negotiations with the EPA and DEQ. The EPA and DEQ could require the City to repair or replace an entire system if it could not meet the required flow capacity.

Mr. Fowler noted the types of studies that were ongoing throughout the City included: 1) Smoke Testing; 2) Pump Station Inspections; 3) Dye Testing; 4) Force Main and Valve Inspections; and 5) Flow Isolation.

Mr. Fowler explained the next steps in the Consent Order process included: 1) Finishing Field Work/Find and Fix Projects; 2) Completing Flow and Pressure Meter Installation; 3) Completing Sewer System Model; 4) Developing a Rehabilitation Plan; 5) Developing a Wet Weather Management Plan; and 6) Programming Construction Projects. (A copy of the presentation, "Sanitary Sewer Special Order by Consent," is attached and made a part of these minutes.)

Mayor Frank inquired whether the aforementioned steps were something that the City should have been doing, exclusive of the Consent Order requirements. Mr. Fowler replied yes, but the pace of the project was faster due to the Consent Order. He stated such work and activity dated back when the Clean Water Act was enacted in the 1970s.

### III. Lee Hall Dam Improvement Project

Acting City Manager Morgan stated the Lee Hall Dam was in need of a major improvement that required an appropriation of \$825,000 for a Professional Engineering Study

and professional services that was on the evening's agenda. He introduced Mr. Brian Ramaley, Director, Department of Public Utilities, to explain the details of the project.

Mr. Ramaley reported the Lee Hall Reservoir system consisted of two separate interconnected impoundments known by the Virginia Department of Conservation and Recreation – Dam Safety Division (DCR), as Lee Hall Upper Dam Outlets Works and the Lee Hall Lower Dam. The impoundments were separated by a 600-foot long CSX railroad embankment.

Mr. Ramaley reported the Lee Hall Dam was the oldest site in the Waterworks' system. It was a 3,500 foot earthen dam, which had been in operation for over 115 years. The Dam created the lower reservoir, which served as the terminal reservoir from which the Lee Hall Water Treatment Plant withdrew raw water for the water treatment process. Waterworks recently completed a seepage repair project in the vicinity of the auxiliary spillway of the Lee Hall Lower Dam.

Mr. Ramaley stated both the dam and embankment were regulated by the DCR. He stated Waterworks was not in full compliance with the revised DCR regulations adopted in September 2008, due to inadequate spillway capacities and stability concerns at the CSX embankment and improbable maximum flood criteria. The improbable maximum flood was an "Armageddon" type flood event, and a statistical calculation; something in excess of 35 inches of rain in 24 hours. The DCR regulations required that the City have a spillway that allowed such an amount of water to pass across the dam without the dam failing. Waterworks had been working with DCR and CSX to resolve ownership and regulatory issues and had recently agreed to a plan for moving forward to full compliance with the regulations. DCR would be granting extensions to Waterworks' Maintenance Certificates based on making progress on the completion of steps outlined in the modification process.

Mr. Ramaley reported, due to the change in spillway capacity in September 2008, Waterworks had been improving the capacity of spillways of regulated dams over the last five years. Waterworks was now addressing the Lee Hall Reservoir. A study of alternatives was recently completed with the assistance of Waterworks' dam engineering consultant. The \$825,000 appropriation on the evening's agenda was for Waterworks to retain an engineering firm for the design services for Phase I of the project. The schedule they were working on was called a Conditional Operational Permit and required that Waterworks have design modifications completed by the summer of 2011 and construction begun by the fall of 2011. The cost of the work would be \$10 to \$20 million. Seventy percent of the water delivered to Waterworks' customers passed through the Lee Hall Reservoir system; hence it was a critical asset to maintain.

Acting City Manager Morgan understood the City needed to modernize the impoundment system separate from any new regulations, and above that, the City had to comply with new regulations, which put Waterworks on the fast track. That was the reason Waterworks needed to appropriate the design funds and authorize execution of the agreement, subject to the final negotiations.

Mayor Frank inquired whether Waterworks was studying all the pathways that water travelled throughout their system, to alleviate seepage, should a major rain event occur. Mr. Ramaley replied that Waterworks was looking at all the pathways to alleviate flooding. He stated the downstream properties had been regulated through the 100 year flood plan. The project was necessary to keep the dam from failing in the event of an improbable maximum flood.

Councilwoman McMillan inquired should another Hurricane Floyd arise, would Waterworks release water from the Lee Hall Dam and, if so, what would it do to the businesses adjacent to the reservoir. Mr. Ramaley replied Hurricane Floyd put one billion gallons of water per day into the Lee Hall Reservoir, and the spillways were designed to let water pass in such a way that the dam remained intact. Waterworks was enhancing the spillways from the reservoir, but the water was going to come out in some way or another.

Councilwoman Woodbury recalled a previous report, noting there was seepage coming from the Lee Hall Dam, which she thought had been addressed. Mr. Ramaley replied the matter had been addressed by building a temporary dam.

Councilwoman Woodbury inquired whether the aforementioned project would be the permanent fix for the reservoir. Mr. Ramaley replied yes, the aforementioned project would begin the process to refurbish the dam permanently.

Councilwoman Woodbury inquired whether the dam would continue to be an earthen dam and whether the structure would be changed. Mr. Ramaley replied the dam would continue to be an earthen dam and the structure would not be changed.

#### IV. Comments/Ideas/Suggestions

Mayor Frank stated, pursuant to Section 4.06 of the City Charter and Section 2.22 of the Newport News City Code, that notice of this meeting, which was provided timely to each member of the City Council, was required to contain the specific item or items of business to be transacted during this portion of the meeting. He asked for a motion of City Council, by unanimous consent, to waive the requirement.

Councilwoman Scott moved to waive the requirement; seconded by Councilwoman Woodbury.

Vote on Roll Call:

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

Nays: None

Councilwoman McMillan expressed gratitude to Mayor Frank and Councilman Bateman for visiting homes in the Hollymeade subdivision to observe the Chinese drywall. She believed the present count of households suffering from the effects of Chinese drywall was over 200 in Virginia and growing. She understood state and federal representatives were doing what they could; however, the delay in helping homeowners was coming from the refusal of anyone to make a definitive response concerning the toxicity of Chinese drywall. China also refused to take responsibility that they had exported a product that had turned out to be toxic or make any type of restitution to anyone in the United States.

Councilwoman McMillan voiced strong support that the City suspends its Sister City relationship with Taizhou, China. She felt the relationship should be suspended until the government of China did the right thing by coming forward and offering assistance or restitution towards the citizens of the United States and the communities suffering from the effects of Chinese drywall.

Councilwoman Woodbury agreed and felt City Council had to take a stand for its citizens who were being treated unfairly. She felt Taizhou appreciated its relationship with Newport News by the fact that through their relationship with Newport News they could visit other parts of the United States. She felt Councilwoman McMillan's suggestion was worth considering.

Councilwoman Scott felt City Council should first contact Sister Cities of Newport News to inquire whether they could help mitigate the problem before dissolving the relationship. She inquired whether her colleagues would entertain voicing their concerns to Sister Cities of Newport News, by letter, and asking that they advocate on the City's behalf, especially since we had a Sister relationship.

Councilwoman McMillan was open to Councilwoman Scott's suggestion; however, she was told by the residents of Hollymeade that they had contacted the federal administration who assured the issue would be addressed on the administration's last official trip to China. The residents had received no feedback as to whether the matter had been addressed, but it certainly was not a secret to the Chinese government that there was a problem. Councilwoman McMillan stated toxic Chinese drywall was just one of many products that China had exported that turned out to be dangerous to the health and safety of U.S. citizens. She had no objection to having the Sister Cities of Newport News advocate on the City's behalf; however, she did not know whether the City government of Taizhou would have any influence on their national government, and felt Newport News had to make a statement.

Mayor Frank was attracted to the idea suggested by Councilwoman Scott, but voiced concern that writing to the City government of Taizhou and asking them to intervene on a national issue seemed to put a burden on them. It would be the same if the City of Taizhou had an issue with the U.S. government and wrote to the City on a local level, asking that we fix a problem in Washington. He indicated that the matter should be referred to Sister Cities of Newport News, as a courtesy, asking that they offer feedback on the matter.

Councilwoman McMillan agreed with referring the matter to the Sister Cities of Newport News.

City Attorney Katz reminded that the City's Sister City relationships with all three Sister Cities were not individually brokered; they were done through Sister Cities International, and there was a protocol to suspend or terminate a Sister City relationship. He offered to look into the matter and share that protocol with City Council, so they understood what was involved in terminating the City's Sister City relationship with Taizhou, China.

Mayor Frank asked Acting City Manager Morgan to communicate City Council's desire to terminate its relationship with Taizhou, China with Sister Cities of Newport News, and to look into the correct protocol to terminate a Sister City relationship.

Councilwoman McMillan stated, through research she had conducted with other communities whose residents were suffering the effects of Chinese drywall, the City of Newport News was the only municipality that had a Sister City relationship with a City in China.

There was consensus among City Council to have the Acting City Manager move forward with communicating City Council's desire to terminate the Sister City relationship with Taizhou, China, and to look into the correct protocol to terminate a Sister City relationship.

Councilman Bateman felt termination was one course of action; however, when it came to severing a relationship, it would be better to ask the Taizhou government for ideas on how to help with the issue. He voiced support for looking at both issues.

Mayor Frank stated Congress was getting more engaged in the issue, and felt, until the Consumer Product and Safety Agency pinned down the cause or connection, limitations existed on what could be done. There was a push to get agencies to take action, in their existing parameters, but the people were drowning in the process.

Councilwoman McMillan agreed that the people were drowning in the process. She noted one particular resident of Hollymeade could not move due to their mortgage payment; and, even if the mortgage payment was suspended, the interest was still increasing on the note.

Mayor Frank noted he made a proposal to the federal government to acquire the mortgages of Chinese drywall residents and suspend interest and principal payments, but had heard nothing. He reminded City Council had asked the General Assembly to assist Chinese drywall residents by offering them a \$100,000 loan to rehabilitate their homes; however, residents were now saying it would cost \$400,000 to rehabilitate their homes.

Councilwoman McMillan felt, as a governing body, Newport News had to do something other than say there was nothing they could do. She felt City Council needed to make a definitive statement of its own, and indicated it would be difficult to welcome and host a Chinese delegation to Newport News when there were 38 citizens struggling because of a product imported from China. One had to admit, if it were an American product exported to another country, our government would be dragged through the coals.

Councilwoman Vick recalled Councilwoman Scott's inquiry regarding letters City Council had received from employees of the Department of Human Services. Councilwoman Vick inquired about receiving an update regarding the outcome of the concerns voiced in the letters at an upcoming Closed Session. Acting City Manager Morgan replied he would share the information with City Council through the appropriate avenue.

Councilwoman Scott inquired about a letter received from the Department of Public Works. Acting City Manager Morgan felt such issues might be better saved for discussion with City Council when he met with them one on one; however, he had to discuss the correct procedure with the City Attorney.

Councilwoman Woodbury mentioned she had received a personal letter from a lady who was concerned about the clock tower at the HRT bus station on Washington Avenue and the fact that the time was never correct on either side of the clock. She stated she would take the matter up with HRT, since they owned the tower. Acting City Manager Morgan stated he had replied to the letter.

Councilwoman Woodbury stated one of the suggestions made about the clock was to paint a picture over it so it would become an attraction instead of a distraction.

Councilwoman Scott mentioned that she volunteered at the United Methodist Church on Harpersville Road, during the massive snow storm, the weekend of February 1, 2010, to help with the homeless program. While volunteering, she recalled a suggestion offered by the Pastor as a solution to what needed to be done to help the homeless population, with which she agreed. The Pastor suggested acquiring a facility and offering tax abatement to the owner of the building. She felt the proposal was worth listening to. The Pastor suggested housing all services for the homeless in one building, to include a service center with computers, to allow the residents an opportunity to search for employment and different programs, as previously suggested by her. She understood the Acting City Manager did not approve of the suggestion,

but asked that he entertain it and offer information for discussion by City Council.

Acting City Manager Morgan understood the Pastor was going to contact him at some point with a proposal. He voiced concern about the impact to the neighborhood where the facility would be located, and the theory that it would not cost much; however, he was open-minded to the proposal.

Mayor Frank was in support of a program that offered a service center component to combat homelessness. He felt a program to end homelessness could not be successful without a service center component.

Councilwoman Scott felt the homeless program could become more manageable if it were held under one roof instead of being shifted throughout the community at different churches. The Pastor felt more churches would get involved if they knew of one centralized location.

Mayor Frank felt that was true for the homeless population as well.

Acting City Manager Morgan assured City staff would help make a homeless shelter work if City Council came together with a concept and location for a service center to be used by or for the homeless.

Councilwoman Vick stated she firmly believed in people becoming empowered and self sufficient, which was the missing link to poverty, especially as it related to the male population. There was no job connectivity once homeless citizens left the shelters and churches. She felt a service center would offer job connectivity through places such as Able Body Labor and Labor Ready. A job would help the homeless become self-sufficient. She also felt the service center should have a case manager that would help the homeless with other issues to improve their lives, which, in turn, would help the entire City.

Mayor Frank stated there seemed to be enough support to ask the Acting City Manager to research a plan for a service center for the homeless for consideration by City Council.

Councilwomen McMillan and Scott suggested that the Acting City Manager first review the plan proposed by the Pastor.

Acting City Manager Morgan stated the concept proposed by the Pastor would require changing the zoning ordinance to allow a day center by conditional use permit, which was the first step from a land use standpoint. He stated he would offer a snapshot of what would be involved and an estimate of the true cost for such a program. He did not believe it could be run entirely with volunteers, and felt it would need some level of support from the City.

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Acting City Manager Morgan stated a resolution recognizing Fire Department personnel who travelled to Haiti to help in the aftermath of the Earthquake was on the evening's City Council agenda. He stated a video-clip highlighting some of the rescue footage would be shown at the February 23, 2010 Regular Meeting of City Council, during the presentation portion of the agenda.

Councilwoman Woodbury stated she was at a neighborhood watch meeting in the City, where discussion was held concerning the number of Police personnel who travelled to Iraq. She inquired whether they could be recognized at some point in the future. Acting City Manager Morgan replied, at any one time, the City had a number of National Guard and Army Reserve officers, that worked for the Police Department, who took leave from the City, to serve as part of their duty in the armed forces.

THERE BEING NO FURTHER BUSINESS,  
ON MOTION, COUNCIL ADJOURNED AT 5:20 P.M.

Jennifer D. Walker  
Chief Deputy City Clerk

Joe S. Frank  
Mayor  
Presiding Officer

A true copy, teste:

City Clerk