

**MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
June 13, 2006
7:30 P.M.**

PRESENT: Joe S. Frank; William F. Haskins; Madeline McMillan; Sharon P. Scott; Joseph C. Whitaker; Charles C. Allen; and Herbert H. Bateman, Jr.-----7

ABSENT: None-----0

1. The invocation was rendered by Reverend Preston L. Jordan, Jr., Trinity Baptist Church.
2. The Pledge of Allegiance to the Flag of the United States of America was led by Councilman William F. Haskins.
3. Public Hearing
 - (a) Conditional Use Permit CU-05-177, World Outreach Worship Center

Mayor Frank presented AN ORDINANCE THAT WOULD GRANT A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A 400-FOOT FM RADIO TOWER AND AN EQUIPMENT BUILDING ON A 12.46 ACRE PARCEL ZONED M-1 LIGHT INDUSTRIAL AT 525 INDUSTRIAL PARK DRIVE. This item pertained to a request for a Conditional Use Permit to allow the construction of a 400-foot FM radio tower and an equipment building on a 12.46 acre parcel zoned M-1 Light Industrial at 525 Industrial Park Drive. This public hearing was continued from the March 14, 2006 Regular Meeting of City Council. A request was received from a representative of the applicant to defer this matter until the July 11, 2006 Regular Meeting of City Council (a copy is attached and made a part of these minutes).

(No Speakers)

Councilwoman McMillan moved to defer the matter to the July 11, 2006 Regular Meeting of City Council; seconded by Councilwoman Scott.

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

4. Consent Agenda

Councilman Haskins moved adoption of the Consent Agenda, Items A through C, both inclusive, as shown below; seconded by Councilman Bateman.

4. Consent Agenda Continued

(a) Minutes of Work Session of May 23, 2006

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

(b) Minutes of Special Meeting of May 23, 2006

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

(c) Minutes of Regular Meeting of May 23, 2006

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

(d) Achievable Dream Secondary School Financing Plan

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, REPEALING RESOLUTION NO. 11068-05 ADOPTED ON DECEMBER 13, 2005, AND APPROVING COMPLEMENTARY ACTIONS NECESSARY TO FACILITATE A PARTNERSHIP BETWEEN THE SCHOOL BOARD AND AN ACHIEVABLE DREAM, INC. TO CLOSE BRIARFIELD ELEMENTARY SCHOOL AND REOPEN THE FACILITY LATER AS A SECONDARY SCHOOL. This resolution approved minor adjustments to the project financing plan for the Achievable Dream Secondary School.

This project involved the conversion of the Briarfield Elementary School into An Achievable Dream Secondary School. The financing plan consisted of private financing through the IRS New Markets Tax Credits program during the initial seven-year period. These proposed changes to the previously approved financing plan were the result of IRS tests relating to financing leases, which required a new resolution of City Council. The substance of the original transactions remained unchanged, and the financial obligations of the City and School Board were also unchanged.

Councilwoman McMillan reminded that she had voted against the financing resolution in December 2005. She reiterated that she was not criticizing the program, but did not approve of the financing mechanism.

Councilwoman Scott inquired about the benefit of this proposed financing plan because she did not support the resolution in December.

Mr. Allan Staley, Attorney with Jones, Blechman, Woltz, and Kelly, representing

4. Consent Agenda Continued
 - (d) Achievable Dream Secondary School Financing Plan Continued

An Achievable Dream, Incorporated, was present to answer questions.

(No Speakers)

City Attorney, Stuart Katz, responded there was no change in consequence to the City, but was the same financial commitment that City Council agreed to undertake in December 2005. He explained there were three minor technical changes the resolution encompassed: (1) length of time. The original lease from the School Board to An Achievable Dream, Inc. was to be for 20 years, which has been changed to 27 years; (2) the original proposal from December committed An Achievable Dream, Inc. to spend an amount equal to \$13 million on the renovation of Briarfield Elementary School. As this was examined, An Achievable Dream felt it may take something less than \$13 million, but did not want to have a technical problem of having to find a way to spend extra money. The language reads "not to exceed \$13 million." The plan would not cost the City any more than it originally were willing to commit to; and (3) involved federal tax law. The advisors for the Achievable Dream Corporation were informed that to take advantage of the federal tax credits, an affiliated corporation was needed, hence another entity would be created. Attorney Katz indicated a fourth change would repeal the resolution from December (Resolution 11068-05).

Councilwoman Scott inquired whether the City was obligating itself to 27 years as opposed to 20 years. City Attorney Katz felt this was a projection for 27 years, and after 7 years, the EDA would purchase the project and continue to lease to the Newport News School system, who would in turn, as long as there was a relationship with An Achievable Dream, have the former Briarfield Elementary School operate as An Achievable Dream Secondary School.

Councilman Bateman read a declaration in accordance with Section 2.2-3115G and H of the Virginia Code, stating that the City Manager recommended that action be taken to approve complementary actions necessary to facilitate a partnership between the School Board and An Achievable Dream, Inc. (AADI) to close Briarfield Elementary School and reopen the facility later as a secondary school in Newport News to be operated by AADI; AADI was a client of his employer, TowneBank; he did not have a personal interest affected by the transaction and did not represent or provide services to AADI; and was able to participate in the transaction fairly, objectively, and in the public interest (a copy is attached to these minutes).

Mayor Frank read a declaration in accordance with Section 2.2-3115H of the Virginia Code, stating that the City Manager recommended that action be taken to approve complementary actions necessary to facilitate a partnership between the School Board and An Achievable Dream, Inc. (AADI) to close Briarfield Elementary School and reopen the facility later as a secondary school in Newport News to be operated by AADI; An Achievable Dream was a client of his law firm; he did not personally represent or provide services to An Achievable Dream and had no personal interest affected by the transaction; his law firm did not represent AADI in this transaction; and he could participate fairly, objectively, and in the public interest (a

4. Consent Agenda Continued
 - (d) Achievable Dream Secondary School Financing Plan Continued

copy is attached to these minutes).

Vice Mayor Allen moved adoption of the above resolution; seconded by Councilman Bateman.

Councilman Haskins inquired about the length of time for the plan and who the EDA would purchase the property from.

Ms. Florence Kingston, Director, Department Development, responded that the plan of finance had not changed. The City and the EDA were still looking at a total 20-year financing term. The change in the lease of the existing improvements from the School Board to the AADI was part of what was required to get an acceptable tax opinion; this change provided AADI an economic interest in the transaction as required by IRS rules. The plan of finance for the project would involve a 7-year term of the new market tax credit. At that time, the EDA would exercise its option to purchase the improvements to the facility, and would finance the loan balance over the remaining 13-year term as contemplated. When the EDA purchased the improvements, it would assume the lease between the School Board and AADI. The 7-year lease term difference would then go away.

Councilman Haskins inquired about the \$13 million that that AADI would receive. Ms. Kingston replied these were the improvements to the existing real estate. He questioned whether we were buying that back from them. Ms. Kingston responded yes, AADI was making the lease hold improvements, carrying the financing for seven years, which would be funded through appropriations to the EDA. The EDA would then purchase those lease hold improvements and finance it over the remaining 13-years. At the end of 20 years, the City and the EDA would have paid for the improvements through a 7-year and a 13-year combined financing, the leases would terminate, and the School Board would maintain ownership and title to both the existing facility and the improvements to that facility. Councilman Haskins inquired whether AADI would get the \$13 million back. Ms. Kingston replied, yes, through the lease payments from the EDA. Councilman Haskins asked whether AADI would get its investment back. Ms. Kingston responded no, there was also a contribution from the AAD Foundation of \$75,000 per year toward the improvements beginning in year 2 through 20. The AAD Foundation would be contributing \$75,000 per year toward the improvements for 18 years.

Mayor Frank replied it was not correct that AADI would receive \$13 million in this transaction other than to pay for the improvements to the property. Ms. Kingston added AADI would borrow the money to make the improvements and through the lease transaction, payments would flow to repay the debt. They made a commitment to provide contributions toward those capital improvements, starting in year 2 for \$75,000 per year.

4. Consent Agenda Continued
 - (d) Achievable Dream Secondary School Financing Plan Continued

Councilman Haskins asked why the EDA was involved. Ms. Kingston responded this was at the recommendation of the prior City Manager, Ed Maroney, similar to another school project, purchase of the Hidenwood Medical facility for school administration, where the EDA ended up being an intermediary lessee of the facility. Councilman Haskins inquired why it was not between the School Board and the AADI.

City Attorney Katz responded the School Board, acting without the EDA could not do this transaction, but the IDA through the powers given to it by the General Assembly could do a transaction of this nature. Councilman Haskins inquired whether the School Board had authority to borrow. City Attorney Katz replied no, not in this fashion. Ms. Kingston added you need to have the AADI to be an eligible borrower for the new markets tax program. Councilman Haskins asked who was getting the tax credit. Ms. Kingston replied the lender and the community development entity that is involved in the transaction.

Councilman Bateman inquired about the rate. Ms. Kingston stated 3 ½% borrowing, with no City guarantee during the 7-year period.

Councilwoman Scott inquired about the 27-year period. Ms. Kingston responded this was precipitated by the tax attorney that was evaluating the deal regarding the test to meet an operating-lease test. There needed to be a difference in the event the EDA did not exercise its option to purchase the improvements. It was needed to get the specialized opinions to achieve the transaction – 3 ½% borrowing for 7-years, no City guarantee, and an ultimate 20-year borrowing. Same deal, same cash flow as presented to City Council and the School Board in December 2005.

Vote on Roll Call:

Ayes: Frank, Haskins, Whitaker, Allen, Bateman

Nays: McMillan, Scott

5. City Council Summer Meeting Schedule

A SPECIAL RESOLUTION CANCELING THE REGULAR COUNCIL MEETINGS OF JULY 25, 2006 AND AUGUST 22, 2006. This resolution canceled the Regular Meetings of City Council scheduled for July 25, 2006 and August 22, 2006. Cancellation of the second regularly scheduled meetings in July and August is consistent with previous years in which City Council met only during each of these two months to accommodate summer vacation schedules. Taking action at this time to officially cancel these meetings allowed staff to schedule pending items for future meeting agendas, and accommodate the required advertising and notification requirements.

(No Speakers)

5. City Council Summer Meeting Schedule

Councilman Haskins moved adoption of the above resolution; seconded by Vice Mayor Allen.

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

6. Conference Center Financing

AN ORDINANCE AUTHORIZING THE PREPARATION AND DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND A FINAL OFFICIAL STATEMENT RELATING TO ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2006, OF THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA, IN PRINCIPAL AMOUNTS NOT TO EXCEED \$19,000,000 AUTHORIZING THE ACCEPTANCE BY THE CITY MANAGER ON BEHALF OF THE CITY OF A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS BY AND BETWEEN SUCH AUTHORITY AND SUNTRUST CAPITAL MARKETS, AS UNDERWRITER OF SUCH BONDS, AND AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY MANAGER ON BEHALF OF THE CITY OF A CONTINUING DISCLOSURE CERTIFICATE OF THE CITY RELATING TO SUCH BONDS. This ordinance facilitated the second phase of the financing plan for the Marriott Conference Center at City Center by authorizing the preliminary and final official statements to the EDA Bond Issuance; acceptance of the Bond Purchase Agreement; and authorization to execute the continuing disclosure certificate for the bonds. The purpose of this EDA bond issue was to fund the remaining tax-exempt costs of the Conference Center and pay related financing costs. The financing schedule projected the bonds sale in mid-June 2006. The EDA approved these financing documents at its June 2nd meeting. In 2004, City Council approved the Payment Agreement, which supported both the \$8,585,000 in taxable bonds, and up to \$19,000,000 in tax-exempt bonds.

(No Speakers)

Vice Mayor Allen moved adoption of the above ordinance; seconded by Councilman Bateman.

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

7. Appropriations

Vice Mayor Allen moved adoption of Item A, as shown below, seconded by Councilman Haskins.

7. Appropriations Continued
 - (a) Road and Pedestrian Safety Projects

A RESOLUTION APPROPRIATING FUNDS FROM FY 2006 BONDS AUTHORIZED AND UNISSUED – STREETS AND BRIDGES (\$300,000.00) TO ROAD AND PEDESTRIAN SAFETY IMPROVEMENTS (\$300,000.00). This resolution appropriated \$300,00.00 from Fiscal Year 2006 Bonds Authorized and Unissued for programmed roadside hazards, guardrail, sidewalk extensions, and ADA Street accessibility projects. Funding for these projects was programmed in the City's Capital Improvements Plan. One-half of this appropriation was for the completion of Phase III-C of an ongoing multi-year ADA accessibility program. The remainder of the appropriation was split evenly between sidewalk extension and planned guardrail projects.

(No Speakers)

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

Vice Mayor Allen moved adoption of Item B, as shown below, seconded by Councilman Haskins.

- (b) CNU Village Project

A RESOLUTION APPROPRIATING FUNDS FROM FY 2006 AUTHORIZED AND UNISSUED – DEVELOPMENT (\$500,000.00) TO CNU VILLAGE (\$500,000.00). This resolution appropriated \$500,000.00 from Fiscal Year 2006 Bonds Authorized and Unissued, which represented the City's next Capital Contribution towards the CNU Village Project. To date, \$1,100,000.00 towards the City's commitment of \$2,500,000.00 had been appropriated by City Council and disbursed to the CNU Real Estate Foundation. With this appropriation, the City would have disbursed 64% of its commitment to this project. The retail portion of the project was more that 90% leased.

(No Speakers)

Vote on Roll Call:

Ayes: Haskins, McMillan, Scott, Whitaker, Allen

Nays: None

Abstentions: Frank (Represents the CNU Real Estate Foundation in a legal matter).

Bateman (Employer, Towne Bank, does business with the CNU Real Estate Foundation).

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

Mrs. Inettie Edwards, 951-12th Street, expressed appreciation for the memorial

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

marker at 28th Street and Washington Avenue, in honor of “The Bird Man,” aka, Mr. Rudolph V. Garland, a former student. She donated a copy of his book, “The South Wind,” to the Newsome House Museum and Cultural Arts Center.

Mrs. Edwards thanked Council for efforts put forth to honor Lawyer Lorenzo Rainy, who did a lot for low-income youth in the Southeast Community.

Mrs. Edwards requested a “Children at Play” sign at the corner of 12th Street and Orcutt Avenue.

Mrs. Edwards inquired about City regulations regarding the placement of basketball goals in City streets. Councilwoman McMillan responded that basketball goals in the streets fall under the prevue of the Newport News Police Department, who were responsible for making sure the goals were removed from the streets. Councilwoman Scott added the Police Department did not enforce this regulation if the property was private. Mayor Frank added goals should not be in streets.

Mrs. Edwards presented a 1996 Newport News Centennial Calendar as a donation to the Newsome House Museum and Cultural Arts Center. She noted she had several other items to donate to the Museum House.

Mr. Freddie B. Allen, 346 Blair Avenue, commended members of City Council for staying the course during difficult times for the City. He further commended Chief James Fox, Newport News Police Department, for staying focused in his work in the City.

Mr. Allen requested City assistance with various matters, i.e. noise, trash and environmental services, vandalism, as well as a harassment issue with a neighbor at 350 Blair Avenue.

City Council requested the City Manager look into the matter and follow-up directly with Mr. Allen.

9. New Business and Councilmember Comments

(a) Councilwoman McMillan presented A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS DECLARING THE MONTH OF SEPTEMBER OF EACH YEAR AS “DENBIGH BEAUTIFICATION MONTH.” This ordinance designated the month of September of each year as Denbigh Beautification Month.

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

9. New Business and Councilmember Comments Continued

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

(b) Councilwoman Scott announced the Community Services USDA Summer Lunch Program, administered through the Office of Human Affairs, during the period June 21 – August 23, 2006. The program was for children ages 2-18 years and would be held 11:30 a.m.- 1:30 p.m. Contact for further information: Mr. Calvin Metts, (757) 245-1205.

Councilwoman Scott further reminded that registration for the Hampton Roads Transit (HRT) Summer Rec Ride program would be held during the period June 12 – June 16, 2006. The program was for youth ages 6 – 16, who could ride HRT buses on Newport News routes free of charge. Registration would be held at the Doris Miller Community Center, David Recreation Center, Midtown Community Center, and the Achievable Dream Tennis Center.

Councilwoman Scott announced the next North District Town Hall Meeting, scheduled for June 26, 2006, 7:00 p.m., at American Legion Post 368, at 368 American Legion Drive. Guests would be City Manager, Randy Hildebrandt, who would provide a brief review of the 2007 Operating Budget; and Mr. Jack Williamson, Coordinator, Department of Emergency Management, to provide an update on Hurricane Preparedness for the 2006 Hurricane season.

(c) Vice Mayor Allen presented A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE DEPUTY CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN ADDENDUM NO. 2 DATED THE 1ST DAY OF JULY, 2006, TO THE AGREEMENT BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND MABEL V. WASHINGTON, CITY CLERK. This was an addendum to the City Clerk's Employment Contract with the City of Newport News. Mayor Frank advised that Council had conducted a performance evaluation on the City Clerk, and as a result would grant a salary increase to \$71,000.00.

Vice Mayor Allen moved adoption of the above resolution; seconded by Councilman Haskins

Vote on Roll Call:

Ayes: Frank, Haskins, McMillan, Scott, Whitaker, Allen, Bateman

Nays: None

Vice Mayor Allen requested that the complaint made by Mr. Freddie Allen be investigated, to find out what was occurring in the structure located at 350 Blair Avenue, and why Mr. Allen was consistently being harassed over the years.

City Manager Hildebrandt indicated the matter would be investigated, and he would be in direct contact with Mr. Freddie Allen. He further indicated a report on the investigation would be provided to City Council.

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 8:13 P.M.

Mabel V. Washington, CMC
City Clerk

Joe S. Frank
Mayor

A true copy, teste:

City Clerk