

MINUTES OF WORK SESSION
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10th FLOOR CONFERENCE ROOM
2400 Washington Avenue
August 8, 2006
1:30 P.M.

PRESENT: Sharon P. Scott; Joseph C. Whitaker; Charles C. Allen; Joe S. Frank;
William F. Haskins; and Madeline McMillan ----- 6

ABSENT: Herbert H. Bateman -----1

OTHERS PRESENT: Randy W. Hildebrandt; Stuart E. Katz; Mabel V. Washington;
William P. Mitchell; Iza Cieszynski; Butch Blanks; Al Riutort; Sheila McAllister; Kathy
James-Webb; Michael King; Leigh Morgan; Charles Hall; Brian Ramaley; Tony Saltis;
Freddie Simmons; Seth Freedland; Lottie Vincent; Cleder Jones; Kim Lee; and Jennifer
Walker

I. Review of Community Services Board Annual Performance
Contract

Mr. Randy W. Hildebrandt, City Manager, introduced Mr. Charles Hall, Executive Director, Hampton-Newport News Community Services Board, to report on the details of the contract.

Mr. Hall highlighted significant changes to the Performance Contract for FY 2007, and indicated the contract was the primary accountability and funding mechanism between the State and the Community Services Board (CSB). He stated the total revenue and expenses for FY2007 approached \$52 million, with the vast majority of earned revenue from Medicare, Medicaid, Anthem, and other insurance companies. He stated the fee revenue for CSB's budget was 55%, which included the entire region. Mr. Hall requested City Council's approval of the Performance Contract for submission to the Department of Mental Health prior to September 15, 2006. (A copy of the presentation is attached to these minutes.)

Mayor Frank inquired whether the CSB served only patients with insurance benefits such as Medicare, Medicaid and Anthem. Mr. Hall replied the CSB provided approximately \$4 million in uncompensated care to individuals with no insurance coverage.

Mayor Frank inquired whether the CSB ordered judgments against people unable to pay. Mr. Hall replied the CSB assessed fees on an applicants ability to pay based on income. Only clients unable to pay assessed fees would be sent to debt set-off through state or federal income taxes.

Mr. Hall summarized his report by stating that the CSB would continue high quality community programs in FY 2007. He noted the additional opportunities and challenges included: the need for additional residential facilities; replacement of Queen's Court/Hurst Haven, a 31 unit apartment building in Downtown Hampton; conversion of mental retardation waiver residences to intermediate care; expansion of homeless efforts beyond current Newport News efforts; improvement of Geriatric Psychiatric Services; and Healthy Families Case Management from the City of Hampton to work with the CSB.

II. Review of Proposed Health Regulations for Tattoo Parlors

Assistant City Manager William P. Mitchell introduced Dr. David H. Trump, Health Director, Peninsula Health Center, to provide a briefing on proposed health regulations for tattoo parlors.

Dr. Trump stated he was not an advocate for or against body art and tattoo establishments, but indicated he was willing to help with regulation efforts. He noted body art and tattooing were invasive procedures with the potential to transmit infectious diseases.

Councilwoman McMillan inquired about Section 20-55 of the proposed ordinance regarding the definition of a minor. (A copy of the proposed ordinance is attached.) She felt children under the age of 18 should not be allowed to get tattoos, regardless of parental authorization. City Attorney Katz, stated the City could not legally prohibit a minor accompanied by their legal guardian from getting a tattoo. He indicated he and Dr. Trump were exploring whether it could be hazardous to one's health as related to age.

Councilwoman McMillan inquired whether an age regulation could be included in the City's ordinance. City Attorney Katz replied he and Dr. Trump would continue to research the matter.

City Manager Hildebrandt suggested that ear piercing be excluded from the ordinance should City Council elect to exclude minors from body piercing and tattooing. He felt City Council would receive a tremendous amount of opposition in regulating a universal procedure.

III. Staff Presentation Peninsula Multi-Jurisdictional Natural Hazard Mitigation Plan

City Manager Hildebrandt introduced Mr. Al Riutort, Director, and Ms. Kathy James-Webb, Senior District Planner, Department of

Planning to provide a presentation on the Peninsula Multi-Jurisdictional Natural Hazard Mitigation Plan. (A copy of the presentation is attached to these minutes.)

Mr. Riutort reported the federal Disaster Mitigation Act of 2000 required localities to adopt a hazard mitigation plan for the continued receipt of pre- and post-disaster hazard mitigation funding from the Federal Emergency Management Agency (FEMA). He stated to meet the mandate Newport News received a grant from FEMA to manage the preparation of a natural hazard mitigation plan. Newport News worked with the Counties of James City and York, and the Cities of Hampton and Williamsburg, over a twelve month period to develop the regional hazard mitigation plan. The five participating localities retained AMEC Earth & Environmental consultants to facilitate the development of the multi-jurisdictional plan and formed a Peninsula Hazard Mitigation Planning Committee (PHMPC) to manage the process. Mr. Riutort reported, in accordance with the federal regulations, the draft plan was reviewed and approved by the Virginia Department of Emergency Management (VDEM) and FEMA pending all five localities adoption of the plan by resolution. (A copy of the plan is attached.)

Vice Mayor Allen inquired why Poquoson was not included in the Multi-Jurisdictional Natural Hazard Mitigation Plan. Mr. Riutort replied Poquoson decided to do their own plan to advance the process of getting mitigation funding after Hurricane Isabel.

Vice Mayor Allen inquired why the City did not incorporate Poquoson's plan into the regional plan. Mr. Riutort replied Poquoson's plan was already complete and approved by FEMA. Vice Mayor Allen inquired why all localities did not have separate plans. Mr. Riutort replied it was less expensive to have one plan rather than separate plans.

Vice Mayor Allen inquired whether there was a regional mitigation requirement that encouraged localities to discourage independence. Mr. Riutort replied jurisdictions could do things independent, because mitigation matters important to Newport News may not be important to another locality.

Ms. James-Webb stated representatives from the Departments of Emergency Management, Planning, Codes Compliance, Engineering, the Assessor's Office, Public Works, Parks and Recreation, Public Utilities, and the Office of Self

Insurance served on the PHMPC. She reported, since October 2004, a total of nine (9) public meetings were conducted in the participating localities to provide citizens an opportunity to learn about the project and allow their input. The plan elements included a Hazard Identification and Risk Analysis for the region, as well as community-specific profiles for each of the five participating localities. The plan also included a series of hazard mitigation goals and objectives that were identified by the PHMPC with guidance from the consultants, as well as specific mitigation recommendations for achieving those goals and objectives. The plan's goals and objectives applied to the entire region, but the mitigation recommendations for each locality were developed and prioritized by that locality's committee. The major regional goals were to reduce impacts and losses from natural hazards by strengthening emergency management programs, minimizing exposure of existing new development and strengthening flood plain management; promote awareness of hazard and vulnerability among citizens, business, industry and government by developing a seasonal multi-hazard public annual education campaign; and maximize the use of available funding by maintaining FEMA eligibility and identifying, analyzing and establishing mitigation project cost share options.

Ms. James-Webb reported Newport News' specific mitigation recommendations re-emphasized activities already planned through the adopted "Framework for the Future" and studies performed after Hurricanes Floyd and Isabel. She stated those recommendations were non-binding, and indicated the Committee would have to come back to City Council for an appropriation and/or ordinance amendment. The recommendations were: 1) adopt an ordinance to prevent price gouging after a disaster; 2) increase accessibility to digital elevation certificate data; 3) retrofit primary shelters with generator hookups; 4) continue implementation of the Flood Assistance Program; 5) continue the Forest Management Program; 6) enact a Zoning Ordinance amendment for floodplain structure elevations to be base flood elevation plus two feet; 7) develop a natural hazards curriculum for public schools; 8) provide contingency planning assistance to small businesses; 9) upgrade drainage system maintenance and increase maintenance frequency; 10) implement a flood hazard awareness program; 11) enroll in a Community Rating System; and 12) conduct an engineering feasibility study of flood-proofing alternatives for four flood-prone pumping stations and pursue funding for cost effective solutions.

Mayor Frank inquired whether the City had authority to adopt an ordinance to prevent price gouging. City Attorney Katz felt the City did not have authority to adopt an ordinance preventing price gouging. He stated this matter should be added to the legislative packet. Ms. James-Webb stated there was a State code provision on price gouging, which was previously amended.

Councilwoman McMillan thought City crews were already cleaning ditches and maintaining drainage pipes throughout the City. Ms. James-Webb noted there were crews cleaning ditches and maintaining drainage pipes before a major storm in specific locations that had a history of flooding.

Councilwoman McMillan noted two ditches in her district that had major overgrowth and were not being maintained on a regular basis. She inquired about the meaning of increased maintenance frequency.

City Manager Hildebrandt stated the City tried to address maintenance problems that created flooding hazards by clearing ditches of major obstructions, such as trees, branches and trash, rather than aesthetic maintenance.

Mayor Frank inquired about obtaining state or federal grants to address the upgrading and hardening of City shelters. City Manager Hildebrandt replied there was no state or federal grants aimed to upgrade shelters.

Mayor Frank indicated the City should identify its needs and costs for inclusion in its legislative package. He requested the City Manager look at crafting federal and state legislation that would create funding for shelter hardening. The City Manager replied he would look into the matter.

III. Staff Briefing: Status of King William Reservoir Project

City Manager Hildebrandt reported that a public hearing for another five year extension of the State permit for the King William Reservoir project was scheduled for Wednesday, July 20, 2006. City Manager Hildebrandt introduced Ms. Eileen Lieninger, Assistant Director, and Ronald E. Harris, Chief of Water Resources, Department of Public Utilities, to brief City Council on the status of the King William Reservoir project.

Mr. Harris reported that Waterworks met with the Virginia Department of Environmental Quality (DEQ) in December 2005, about the possibility of extending the State permit for the King William Reservoir project. He stated the present permit expired at the end of 2007. Waterworks felt the plan needed to be extended to 2012 to allow the City time to complete its plans and studies. (A copy of the King William Reservoir Project Implementation Plan explaining the status of the King William project is attached and made a part of these minutes.)

IV. Sale of Waterworks Property for VDOT Project: Route 105, Ft. Eustis Boulevard

City Manager Hildebrandt stated the Virginia Department of Transportation (VDOT) asked the City to convey 5.465 acres of watershed property, and grant 0.693 acres of permanent easements and 0.361 acres of temporary easements along Fort Eustis Boulevard. The property acquired would be used for construction and maintenance of stormwater management basins and permanent and temporary construction easements. A public hearing was held at the May 9, 2006 Regular Meeting of City Council, for consideration of an ordinance authorizing the sale of the property to VDOT and was tabled until further information could be provided concerning the value of the property.

City Manager Hildebrandt stated the proposed purchase price for the property was \$85,214.80. Funds received for the land would go into Waterworks' "Cash Land Restricted Account" to be used to purchase property on an as-needed basis for water quality protection. He recommended that City Council approve the ordinance to convey the approximate 6.419+ acres of City-owned Waterworks property in York County to VDOT for \$85,214.80, in light of the water quality BMP's' offered by VDOT.

Vice Mayor Allen stated the City hired an appraiser to appraise a piece of property that the City purchased, which was appraised at \$40,000 per acre. The City was now hiring an appraiser to sale a piece of property which seemed to be the property that the City brought. The City's appraisal to sale the property was low and the appraisal to buy the property was high. He questioned whether the appraisers were playing games with the City.

Ms. Leininger stated the land along Fort Eustis Boulevard was unlimited access highway with a 25-foot easement on each side and zoned Resource Conservation, which was York County's zoning for agriculture, military and Waterworks land. She stated if the City wanted to develop the Resource Conservation land it would not get access to it from Newport News. Ms. Leininger stated when the appraiser looked at the land the access issue was part of the low value appraisal. Waterworks noticed the assessed value was higher than the initial appraisal, and felt the City would not get a higher appraisal than VDOT's offer due to land constraints, limited access, the 25-foot scenic easement and the Resource Conservation designation.

V. Discussion Regarding the Tethering of Dogs

City Manager Hildebrandt noted a report on the tethering of dogs, generated in response to a request from People for the Ethical Treatment of Animals

(PETA), for the City to consider adopting legislation prohibiting, or at least significantly limiting, the chaining (“tethering”) of pet dogs. He stated after researching PETA’s request, and evaluating the impact of tethering ordinances in other communities, the City’s Animal Services Division recommended that an educational, rather than an enforcement approach, be initially pursued.

Councilwoman McMillan reminded City Council of her memo regarding the tethering of dogs. She felt the City should adopt an ordinance that would impose a consequence on pet owners who tethered their dogs, especially since tethering was acknowledged nationally to be detrimental to animals. She inquired why the City needed a four color brochure, commercials on local television stations, and newspaper ads to educate citizens on dog tethering. She felt a huge amount of money would be spent on mediums that had a limited impact. She inquired of the proposal to have assemblies on dog tethering in schools. Councilwoman McMillan felt this was a waste of tax dollars, and indicated the City needed an ordinance to address this issue. (A copy of her memo is attached to these minutes.)

City Manager Hildebrandt stated the City’s Animal Services Division recommended that an educational approach be pursued initially, rather than enforcement. Mr. Hildebrandt introduced, Michael Poplawski, Director, Parks, Recreation and Tourism, to report on the logic of recommending education versus enforcement by an ordinance.

Mr. Poplawski stated tethering was inappropriate as the primary means of confinement for dogs. He reported that as of May 2006, approximately 11 jurisdictions nationwide had enacted a complete ban on tethering, and 50 jurisdictions nationwide had passed ordinances restricting or limiting tethering. Many of the ordinances passed by these jurisdictions varied with regard to length of time that tethering was allowed, and/or under what circumstances, e.g., length of tethering, time of day, etc. (A copy of his presentation is attached and made a part of these minutes.)

Mr. Poplawski stated concerns with tethering legislation included: no consensus on how tethering should be specifically addressed or legislated; tethering ordinances were difficult and labor-intensive to enforce – no local jurisdictions that had passed legislation had taken cases to court; and existing City and State Codes had adequate provisions for insuring proper tethering and animal treatment/care.

Mr. Poplawski summarized by stating that most animal care organizations agreed that tethering should not be used as the primary method of confinement for dogs, and a program designed to educate pet owners should precede any attempt to regulate or legislate tethering. He recommended the implementation of a comprehensive tethering education program for City residents that would include cable access programs and public service announcements, information segments for local broadcast, local print media informational advertisements, development/distribution of educational brochures, educational programs in schools and at civic clubs; and tracking of service calls to determine effectiveness of educational efforts.

Mayor Frank inquired whether tethering was considered inhumane. Mr. Poplawski replied it was inhumane under certain circumstances, which would allow cruelty issues to be enforced through existing City and State ordinances.

Councilwoman McMillan felt education was key to making citizens aware of the effects of dog tethering. She stated she saw an ordinance as providing a mechanism to investigate additional animal cruelty violations. City Attorney Katz noted the City already had legislation regarding cruelty violations.

Councilman Bateman inquired whether other localities had tethering timers. Mr. Poplawski replied it was very labor intensive to prosecute and provide law enforcement on tethering where one could not time the duration of a tethered dog.

Councilwoman McMillan inquired whether perceived animal cruelty was done on a call-in basis. Mr. Poplawski replied most perceived animal cruelty was done on a call-in basis.

City Manager Hildebrandt inquired whether an ordinance could be constructed that referenced tethering and its affects, with general guidelines for citizens to follow. City Attorney Katz replied such an ordinance could be constructed.

Mayor Frank felt brochures and information pieces to citizens, veterinarians, and pet stores, as well as mailings and television commercials were adequate. He suggested the City adopt an ordinance that dealt with the safe and inhuman aspects of tethering by regulating rope spacing and shelter issues.

Councilwoman McMillan asked for consideration to her suggestion that citizens be given an information sheet on tethering when they adopt dogs from the SPCA.

There was consensus among City Council to move forward with the above recommendations to educate citizens on specific guidelines to tether dogs.

VI. Miscellaneous Matters

City Manager Hildebrandt stated the City resolved the issues of the Villages of Kiln Creek Owners Association as it related to the City's ordinance pertaining to the usage of PODS. (A copy of his response to the Homeowner's Association is attached to these minutes.)

City Manager Hildebrandt provided City Council with a copy of the detailed plan for the Jamestown 2007 Commemoration regarding specific events and allocated funding. (A copy of the plan is attached to these minutes.)

City Manager Hildebrandt announced his selection of Mr. Glenn A. Butler, as the new Director of Human Services. He stated Mr. Butler's appointment would begin on July 17, 2006, with an annual salary of \$115,000. Mr. Butler replaced Mr. S. E. Culpepper, who retired as Human Services Director in May 2005, after 34 years of service with the City of Newport News. (A copy of a News Release announcing Mr. Butler's appointment is attached to these minutes.)

City Manager Hildebrandt referenced a letter he received from the Virginia Port Authority support of \$100,000 towards the City's new Fire Boat. (A copy of the letter is attached to these minutes.) He noted Councilman Haskin's input in speaking with the Coast Guard to approach the Virginia Port Authority regarding the contribution of funding to the Fire Boat. He also recognized Mr. William Brace for his input in helping the City receive the \$100,000 contribution from the Virginia Port Authority.

(Recess for Closed Session: 4:40 p.m. - 5:10 p.m.)

Vice Mayor Allen stated the request for a resolution authorizing submission of a federal grant for the South Jefferson Park Redevelopment Plan did not give Dr. William Harvey, President, Hampton University, any credit. He indicated Mr. William Thomas, Director for the Office of Governmental Relations, Hampton University (HU), was an employee of HU whose expertise in securing grant funding was of benefit to the City. He noted Councilman Haskins assistance in soliciting the help of Senator George Allen, who promised to head the project and make it happen. He hoped the project would not turn political, in the sense that people who had other interests might discourage Senator Allen's support by questioning his involvement.

Vice Mayor Allen explained the \$5 million grant would go beyond the resolution passed a few weeks ago by City Council, which identified an urban

renewal concept under State Law Title 36. He indicated the resolution being considered on the July 11, 2006 Regular Council agenda extended the area to 43rd Street and dealt with issues along the railroad. He also wanted to move some conflicting uses, such as the cab stand and the used car lot on 43rd Street to the northern or western area of Jefferson Avenue.

Vice Mayor Allen stated Mr. Thomas and Dr. Harvey had been instrumental in getting the Jefferson Park revitalization project approved, and noted Hampton University had set aside \$1 million to justify their involvement. One half million dollars would be used for administration, should HU become the grantee of the project, and the remainder \$.5 million was for Hampton's Architectural and Sociology Department to participate in the process in dealing with the area's social element. Vice Mayor Allen felt the revitalization of Jefferson Park would cause the biggest historical relocation of people who had not been able to sustain themselves in this society, and the City had to be sure this did not become an issue. He also indicated the federal government enacted legislation that clearly noted that urban renewal projects were eminent domain projects. The revitalization of Jefferson Park would have an eminent domain overview because if the City came to the point where it could not buy property, through negotiations, it would have to be taken. The new federal requirements on HUD clearly stated, "public purpose". He indicated some of the language in the grant would be harsh, in terms of dilapidation, blight, incompatible land uses, i.e. houses next to railroad crossings and dust. He stated when the grant finally got to the point that Congress would or would not approve it the Jefferson Park community needed to look as if it were in dire straights to be competitive against other projects, such as the rebuilding of New Orleans. He asked City Council to support the resolution. He noted the City would have to come back with a memorandum of agreement between the City and Hampton University.

City Attorney Katz stated the resolution authorized the City Manager to prepare the memorandum subject to the City Attorney's review and approval to form. The City Manager would not have to come back for another authorization to do the memorandum.

THERE BEING NO FURTHER BUSINESS
ON MOTION COUNCIL ADJOURNED AT 5:30 P.M.

Jennifer D. Walker, CMC
Chief Deputy City Clerk

Joe S. Frank
Mayor

A true copy, teste:

City Clerk