

**MINUTES OF REGULAR MEETING  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE CITY COUNCIL CHAMBERS  
2400 WASHINGTON AVENUE  
April 10, 2007  
7:30 P.M.**

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

ABSENT: None-----0

1. The invocation was rendered by Reverend Lawrence Willis, Carver Memorial Presbyterian Church.

2. The Pledge of Allegiance to the Flag of the United States of America was led by Councilwoman Madeline McMillan.

3. Public Hearing

(a) Conveyance of City-Owned Property to Newport News Green Foundation, Inc. – 10295 Jefferson Avenue

Mayor Frank presented AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST ON BEHALF OF THE CITY OF NEWPORT NEWS ANY AND ALL DOCUMENTS, INCLUDING DEEDS, NECESSARY TO EFFECTUATE THE CONVEYANCE OF CERTAIN CITY OWNED PROPERTY TO NEWPORT NEWS GREEN FOUNDATION, INC. He advised this authorized the execution of any and all documents necessary to effectuate the conveyance of City-owned property located at 10295 Jefferson Avenue to the Newport News Green Foundation, Inc. This was a 2.0 acre undeveloped parcel recommended for conveyance to the City's Green Foundation to ensure that it remained in its natural state as green space.

(No Speakers)

Councilwoman McMillan moved closure of the public hearing; seconded by Councilman Haskins.

Vote on Roll Call:  
Ayes: McMillan, Scott, Whitaker, Allen, Bateman, Frank, Haskins  
Nays: None

Councilman Haskins moved adoption of the above ordinance; seconded by Councilman Bateman.

Vote on Roll Call:  
Ayes: McMillan, Scott, Whitaker, Allen, Bateman, Frank, Haskins  
Nays: None

4. Consent Agenda

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

(a) Minutes of Work Session of March 27, 2007

Vote on Roll Call:

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

Nays: None

(b) Minutes of Special Meeting of March 27, 2007

Vote on Roll Call:

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

Nays: None

(c) Minutes of Regular Meeting of March 27, 2007

Vote on Roll Call:

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

Nays: None

(d) Hampton Roads H2O – Help to Others

A RESOLUTION SUPPORTING THE INCORPORATION OF THE HAMPTON ROADS HELP TO OTHERS PROGRAM AS A 501(c)(3) NONPROFIT CORPORATION AND SUPPORTING CONTINUED PARTICIPATION BY THE CITY OF NEWPORT NEWS IN THE PROGRAM. This resolution authorized the City's continued participation in the Hampton Roads H2O – Help to Others Program, and support for the establishment of a non-profit organization to operate the program. This program was established in 1999 by the Hampton Roads Planning District Commission (HRPDC) along with 15 other localities in this region. The program provided financial assistance to individuals and families in danger of losing residential water service due to non-payment of a local water or sewer bill. Administrative costs were paid for by the region's water utilities, HRSD and HRPDC, which also acted as the coordinating agencies. The establishment of a non-profit organization for program administration was necessary to ensure that all contributions to the program were tax deductible.

(No Speakers)

Vote on Roll Call:

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

Nays: None

(e) Acceptance of Properties from Newport News Green Foundation, Inc. – 125B and 139 Sandpiper Street

4. Consent Agenda

- (e) Acceptance of Properties from Newport News Green Foundation, Inc. – 125B and 139 Sandpiper Street Continued

A RESOLUTION ACCEPTING THE DONATION OF PROPERTIES AT 125B AND 139 SANDPIPER STREET FROM THE NEWPORT NEWS GREEN FOUNDATION, INC. These properties were undeveloped, marshland parcels that would be used to support the City's open space and stormwater programs. In total, they represented approximately 3.8 acres.

(No Speakers)

Vote on Roll Call:

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

Nays: None

- (f) Acceptance of Streets in City Street System – Port Warwick Subdivision, Phase 3

AN ORDINANCE TO ACCEPT WALT WHITMAN AVENUE, HERMAN MELVILLE AVENUE, EUGENE O'NEIL STREET, WILLIAM FAULKNER NORTH, WILLIAM FAULKNER SOUTH, T. W. ELIOT STREET, MARK TWAIN NORTH, MARK TWAIN SOUTH, JAMES BALDWIN STREET, ROBERT FROST STREET, EMILY DICKINSON NORTH AND EMILY DICKINSON SOUTH, PORT WARWICK SUBDIVISION, PHASE 3, AND THE PHYSICAL IMPROVEMENTS CONTAINED THEREIN AND THEREON INTO THE CITY STREET SYSTEM. This ordinance accepted into the City's street system the streets and their associated public improvements located in Phase 3 of the Port Warwick Subdivision. A final inspection of these improvements was made by the City's Engineering Department, which determined that they were constructed in accordance with City standards. The following streets and their associated public improvements were included: Walt Whitman Avenue, Herman Melville Avenue, Eugene O'Neil Street, William Faulkner North, William Faulkner South, T. S. Eliot Street, Mark Twain North, Mark Twain South, James Baldwin Street, Robert Frost Street, Emily Dickinson North, and Emily Dickinson South.

(No Speakers)

Vote on Roll Call:

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

Nays: None

- (g) City Code Amendments – Fire Prevention and Protection

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 16, FIRE PREVENTION AND PROTECTION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., FIRE PREVENTION, SECTION 16-15, FIRE CODE INSPECTION FEE.

4. Consent Agenda
  - (g) City Code Amendments – Fire Prevention and Protection Continued

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 16, FIRE PREVENTION AND PROTECTION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE V., FIRE ALARM SYSTEMS, SECTION 16-50, DEFINITIONS.

These ordinances amended the Fire Prevention and Protection section of the City Code to revise the schedule of Fire Code Inspection Fees, and provided enforcement for the maintenance of centrally controlled fire alarm systems. The first ordinance revised upward the schedule of fees charged to business owners who were subject to inspection under the Virginia Statewide Fire Prevention Code. The fee schedule had not been adjusted since its inception in 1991. The fee was proposed to increase by \$25 for smaller square footage occupancies and \$75 for larger occupancies. The second ordinance clarified responsibility, penalty-wise, to include landlords of premises which had central fire alarm systems that were controlled by the owner or manager of such facilities.

(No Speakers)

Vote on Roll Call:

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

Nays: None

5. Extension of Conditional Use Permit CU-06-191, J. Clyde, LLC

AN ORDINANCE TO AMEND ORDINANCE NO. 6231-06 AND THEREBY GRANT A TWELVE MONTH EXTENSION OF CONDITIONAL USE PERMIT CU-06-191, FOR REAL ESTATE AT 947 J. CLYDE MORRIS BOULEVARD. This ordinance granted a twelve (12) month extension of Conditional Use Permit CU-06-191. This Conditional Use Permit was granted in April 2006 to allow a used car dealership on a 0.91 acre parcel located at 947 J. Clyde Morris Boulevard. The City's Zoning Ordinance allowed an applicant to request from City Council an extension of up to twenty-four (24) months. The applicant on this particular permit cited a need for more time because of the difficulty in obtaining construction bids.

(No Speakers)

Councilwoman McMillan moved adoption of the above ordinance; seconded by Councilman Bateman.

Vote on Roll Call:

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

Nays: None

6. Extension of Conditional Use Permit CU-06-192, Cars, LLC

AN ORDINANCE TO AMEND ORDINANCE NO. 6249-06 AND THEREBY GRANT A TWELVE MONTH EXTENSION OF CONDITIONAL USE PERMIT CU-06-192, FOR REAL ESTATE AT 11282, 11284, 11286, 11292 AND 11296 JEFFERSON AVENUE. This ordinance granted a twelve (12) month extension of Conditional Use Permit CU-06-192. This Conditional Use Permit was granted in May 2006 to allow a used car dealership on 2.29 acres located at 11282, 11284, 11286, 11292, and 11296 Jefferson Avenue. The City's Zoning Ordinance allowed an applicant to request from City Council an extension of up to twenty-four (24) months. The applicant on this particular permit cited a need for more time for site planning and design.

(No Speakers)

Councilwoman McMillan moved adoption of the above ordinance; seconded by Vice Mayor Allen.

Vote on Roll Call:

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

Nays: None

7. Extension of Conditional Use Permit CU-06-194, Michael F. Carpenter

AN ORDINANCE TO AMEND ORDINANCE NO. 6250-06 AND THEREBY GRANT A TWELVE MONTH EXTENSION OF CONDITIONAL USE PERMIT CU-06-194, FOR REAL ESTATE AT THE INTERSECTION OF NORTH AVENUE AND WARWICK BOULEVARD. This ordinance granted a twelve (12) month extension of Conditional Use Permit CU-06-194. This Conditional Use Permit was granted in May 2006 to allow a car wash on a .0927 acre parcel located at 9512 Warwick Boulevard. The City's Zoning Ordinance allowed an applicant to request from City Council an extension of up to twenty-four (24) months. The applicant on this particular permit cited a need for more time to meet all the requirements of the conditional use permit. He was prepared to proceed with the construction upon approval of this site plan.

(No Speakers)

Councilman Haskins moved adoption of the above ordinance; seconded by Councilman Bateman.

Vote on Roll Call:

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

Nays: None

8. Amendments to the Project Administration Agreement and Appropriation of Funds – "USS Monitor Center"

A. Project Administration Agreement Amendments

8. Amendments to the Project Administration Agreement and Appropriation of Funds – “USS Monitor Center” Continued

A. Project Administration Agreement Amendments Continued

A RESOLUTION APPROPRIATING FUNDS FROM UNITED STATES DEPARTMENT OF TRANSPORTATION AND VIRGINIA DEPARTMENT OF TRANSPORTATION TO USS MONITOR CENTER. This resolution authorized the execution of amendments to the Project Administration Agreement with the Virginia Department of Transportation (VDOT) for the “USS Monitor Project.” These amendments referenced additional monies that were received from VDOT for this project. The original administration agreement was approved May 2006 by City Council, along with \$325,000 of Federal and State pass-through funding. The City’s role in this agreement was as a sponsor and was limited to the handling of a reimbursement transaction related to VDOT’s funding of the project. Mayor Frank advised that this resolution had been withdrawn and no Council action was necessary.

(No Speakers)

B. Appropriation of Funds

A RESOLUTION APPROPRIATING FUNDS FROM UNITED STATES DEPARTMENT OF TRANSPORTATION (\$512,260.00) AND VIRGINIA DEPARTMENT OF TRANSPORTATION (\$53,266.00) TO USS MONITOR CENTER (\$565,526.00). This resolution appropriated \$565,526.00 of additional funding from the U. S. Department of Transportation and the Virginia Department of Transportation for the “USS Monitor Center” project. The Mariners’ Museum received additional Federal and State grant pass-through funds from a SAFTEA-LU High Priority Fund Allocation. The Museum would use these funds to reimburse expenditures made in the construction of the landscaping, lighting, sidewalks, and parking lots that support the Monitor Center exhibit.

(No Speakers)

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

Vote on Roll Call:

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

Nays: None

9. Appropriations

Councilwoman Scott moved adoption of Items A through G, both inclusive, as shown below, seconded by Councilman Haskins.

(a) Cashiering System Upgrade – Treasurer’s Office

9. Appropriations Continued

(a) Cashiering System Upgrade – Treasurer’s Office Continued

A RESOLUTION APPROPRIATING FUNDS FROM GENERAL FUND RESERVES (\$90,000.00) TO TREASURER CASHIERING SYSTEM (\$90,000.00). This resolution appropriated \$90,000.00 from General Fund Reserves that were designated for the information technology fund to upgrade the cashiering system in the Treasurer’s Office. This funding would upgrade the cashiering system computer platform to the new iNovah software platform. This upgrade was consistent with the City’s strategic plan to replace legacy tax systems that were scheduled to occur in the 2009-2010 timeframe. In addition to the software upgrade, these monies included funding for a new server and new receipt printers.

(No Speakers)

Vote on Roll Call:

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

Nays: None

(b) Sheriff’s Department Operating Equipment

A RESOLUTION APPROPRIATING FUNDS FROM STATE COMPENSATION BOARD – SHERIFF (\$7,768.00) TO INFORMATION TECHNOLOGY EQUIPMENT (\$7,768.00). This resolution appropriated \$7,768.00 of revenue from the State Compensation Board for the purchase of operating equipment by the Sheriff’s Department. This represented additional revenue received from the Compensation Board which would be used to purchase operating equipment by the Sheriff, specifically four (4) laptop computers to be used in the Civil Process function of the department. No City funds were needed as a match.

(No Speakers)

Vote on Roll Call:

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

Nays: None

(c) Independent Living Program Grant

A RESOLUTION APPROPRIATING FUNDS FROM FEDERAL REVENUE (\$93,459.00) TO INDEPENDENT LIVING (\$93,459.00). This resolution appropriated \$93,459.00 of Federal Grant Revenue for the City’s Independent Living Program. This program was administered by the City’s Department of Social Services. The program assisted foster care and former foster care youth in developing the skills necessary to make the transition from foster care to independent living. Program activities were focused on personal development skills, such as self-esteem, communication, decision-making, conflict resolution, and anger management. The Hampton-Newport News Community Services Board would provide the required in-kind local match for these grant funds.

9. Appropriations Continued

(c) Independent Living Program Grant Continued

(No Speakers)

Vote on Roll Call:

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

Nays: None

(d) Child Care Quality Initiative Program Grant

A RESOLUTION APPROPRIATING FUNDS FROM REVENUE (\$51,563.00) TO QUALITY INITIATIVE PROGRAM GRANT (\$51,563.00). This resolution appropriated \$51,563.00 of Federal Grant Revenue for the City's Child Care Quality Initiative Program. This Program was administered by the City's Department of Social Services. The program focused on the development, enhancement, and strengthening of initiatives to increase the quality of child care delivered to children. Program activities included consumer education, referrals, training and technical assistance, and other quality initiatives that would increase parental choice and improve the quality and availability of care. No City funding was needed to match this Federal Grant.

(No Speakers)

Vote on Roll Call:

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

Nays: None

(e) Information Technology Asset Management Software

A RESOLUTION APPROPRIATING FUNDS FROM GENERAL FUND RESERVES (\$206,300.00) TO IT ASSET MANAGEMENT (LANDESK) SYSTEM (\$206,300.00). This resolution appropriated \$206,300.00 to the Technology Investment Fund from Fiscal Year 2006 General Fund Reserves to purchase LanDesk Information Technology Asset Management Software. The LanDesk software system allowed the City's IT staff to improve the efficiency and effectiveness in the management of technology assets. The system had remote capacity which would further decrease maintenance costs and increase productivity. Deploying this new software eliminated the need for an additional PC engineer in Fiscal Year 2008, and reduced licensing costs.

(No Speakers)

Vote on Roll Call:

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

Nays: None

9. Appropriations Continued

(f) Virginia Tourism Corporation Marketing Grant Continued

A RESOLUTION APPROPRIATING FUNDS FROM STATE – VIRGINIA TOURISM CORPORATION (\$5,000.00) AND TOURISM, PROMOTIONS AND DEVELOPMENT FUND (\$5,000.00) TO GETTING BACK TO THE BASICS GRANT (\$10,000.00). This resolution appropriated \$5,000.00 of State Grant Revenue from the Virginia Tourism Corporation, and \$5,000.00 from the City's Tourism, Promotions and Development Fund for a Student and Youth Tourism Marketing Program. This project was a co-op advertising and promotional plan between the Newport News Tourism Development Office and area museums and cultural attractions. The purpose of the project was to increase visitation by student tour groups. This particular project would conclude in December 2007, upon exhaustion of the grant funds, but the co-op was planning to continue the marketing effort into 2008.

(No Speakers)

Vote on Roll Call:

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

Nays: None

(g) Cities Readiness Initiative Grant

A RESOLUTION APPROPRIATING FUNDS FROM VIRGINIA DEPARTMENT OF HEALTH (\$20,535.00) TO CITIES READINESS INITIATIVE GRANT (\$20,535.00). This resolution appropriated \$20,535.00 of State Grant Funds for a Cities Readiness Initiative (CRI) Program that was sponsored by the Virginia Department of Health. The CRI was a federal program to help cities increase their capacity to deliver medicines and medical supplies from the Strategic National Stockpile during large scale public health emergencies. These planning grant funds were intended to be used to set up and maintain a computerized system to help ensure citizens needing disaster related medications get them in a timely manner. The City's Department of Emergency Management would administer the program. No local match was required for this grant.

(No Speakers)

Vote on Roll Call:

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

Nays: None

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

Mr. Andrew Peebles, 100 Martha Lee Drive, Apt. 4, Hampton, outlined the professional credentials of Mr. John Wesley Hill, lead investigator for the Coalition for Justice.

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

Mr. Rudy Langford, President, Coalition for Justice, 232 West Gilbert Street, Hampton, commented on the facts and findings of the investigation from the police shooting of Mr. Robert Lamont Harper, particularly relating to the number of shots fired by the police officer that fired the fatal shot. Mr. Langford referenced a witness, and suggested a hate crime or a case of possible premeditated murder. He further suggested that the murder scene had been re-arranged and misinformation presented in the case by Chief of Police, James Fox.

Reverend Marcellus L. Harris, 15 Merritt Road, Hampton, representing the Coalition for Justice, distributed an "Administrative Status Report" featuring the facts and findings of the investigation from the police shooting of Mr. Robert Lamont Harper by the Coalition for Justice for Civil Rights. A copy of the report is attached and made a part of these minutes. Reverend Harris acknowledged members of the Coalition for Justice, who had worked to bring resolution to the case. He stated it was evident that the circumstances surrounding the shooting were indisputable, and was convinced that City Council would do the right thing as they objectively reviewed the status report.

Ms. Tricia Stall, 804 Riverside Drive, Newport News, shared the "Taxpayers Lament." She expressed concern for the transportation plan recently passed by the General Assembly. She advocated a voter referendum on the proposal for the establishment of the Hampton Roads Transportation Authority. Ms. Stall reminded that citizens had defeated this regional attempt in November 2002. She advised that the citizens needed to fight unelected regional taxing authorities in the State of Virginia. She further announced her candidacy for the Senate of Virginia in the 1st District. Ms. Stall also extended an invitation to attend the "RETRO" (real estate tax reduction organization) public meeting scheduled for Wednesday, April 11, 2007, 7:00 p.m., at the First United Methodist Church, Newport News, to hear citizen concerns.

Ms. Mary Raney, 119 Selden Road, Newport News, spoke in favor of restricting the authority of government to take private property via eminent domain for private development. She read excerpts from a letter by the President of the American Policy Center, regarding sustainable development.

Mr. Prince Lynch, 1417 24<sup>th</sup> Street, Newport News, commented on shootings in the community, prejudice, and requested fair and equal treatment.

11. New Business and Councilmember Comments

City Manager Randy Hildebrandt presented A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN SETTLEMENT AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND THE MATTAPONI INDIAN TRIBE, DATED THE 10<sup>TH</sup> DAY OF APRIL, 2007. He advised this authorized the execution of a Settlement Agreement by and between the City of Newport News and the Mattaponi Indian Tribe. This resolution also authorized payment in the sum of \$650,000.00 in full settlement of the pending Court litigation under this case. The

11. New Business and Councilmember Comments

payment would be made from funds previously appropriated to the Waterworks Regional Raw Water Supply Project on October 24, 2006. For clarification, City Manager Hildebrandt advised this money came from the Waterworks Enterprise Fund, which was supported by customer fees for water service and not out of general tax dollars.

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

Vote on Roll Call:

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

Nays: McMillan

Councilwoman Scott announced the next North District Town Hall Meeting was scheduled for April 23, 2007, at American Legion Post 368 at 7:00 p.m. Guest speakers would include three Assistants Chiefs of Police from the Newport News Police Department.

Councilwoman Scott asked the City Manager to provide an update to the citizens regarding the investigative reports related to the police shooting of Robert Lamont Harper.

City Manager Hildebrandt reported that the criminal investigation of the Harper shooting was complete and had been presented to the Commonwealth's Attorney for review. The administrative investigation report was near completion. The City Manager would be briefed on that report within one week, providing the first opportunity to review the information put together related to the investigation. Upon completion of the City Manager's review, who would determine whether all questions had been established and answered, the information would be presented to the City Council.

Vice Mayor Allen presented A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, APPROVING THE POWERS GRANTED BY THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF VIRGINIA TO THE HAMPTON ROADS TRANSPORTATION AUTHORITY PURSUANT TO THE HAMPTON ROADS TRANSPORTATION AUTHORITY ACT, SECTIONS 33.1-391.6 ET SEQ. OF THE CODE OF VIRGINIA OF 1950, AS AMENDED.

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

Councilman Haskins indicated this resolution would provide taxing authority to the Hampton Roads Transportation Authority, which adds fees and a grantor's tax. It was his belief that a public hearing be held with respect to this resolution. It was his intent to vote against the resolution.

Councilwoman McMillan reiterated that a referendum was held approximately five years ago relating to the Hampton Roads Transportation Act. She indicated she did not support it then, nor did she support it now. She expressed displeasure with members of the Vir-

11. New Business and Councilmember Comments

ginia General Assembly. She reiterated that the public had voted it down previously. She stated she would not approve this particular document.

Councilwoman Scott commented that she was not excited about the proposal, and was disappointed that the State was not willing to do its part. She further stated that she was a poster child for the road referendum that failed years ago. She stated that traffic was horrendous and it was obvious the State would not do anything. With trepidation, Councilwoman Scott indicated she would support the resolution.

Vice Mayor Allen stated everyone realized the status of the roads in the community. He stated this empowered City Council to improve mass transit, which was desperately needed. Except for the grantor's tax, the remainder of the taxes were basically user fees, i.e. on people who use the vehicles, that use the roads, etc. This resolution gave Newport News some money to continue development of mass transit in this area beyond the bus system.

Councilman Bateman stated he appreciated the remarks by Council members Haskins and McMillan. As a conservative, one of the primary things you do is take care of and maintain your assets, making sure they are kept in good shape. The State has not done that. Councilman Bateman stated he had tremendous respect for the local elected delegates and felt they went to the table in good faith to do what they could to alleviate transportation problems in this area. He stated there were a number of different ways this could have been done, but was not. This bill was designed as a compromise. The Governor sculpted the proposal, changed it, and the General Assembly voted for it. This resolution gave possibilities, to City Council, through its own initiatives and other bond fundings, to get such primary roads as the Middle Ground Boulevard Extension. This was paramount and this resolution moved the City closer to that goal. It was a workable solution giving the City what it needed, sooner rather than later.

Councilman Whitaker concurred, stating this should not have been pushed on City Council, but indicated it was a starting point.

Mayor Frank stated the region had been trying to get a rational transportation plan adopted for the past seven years. The last time the state legislature effectively addressed transportation was twenty years ago. This plan was not what the members of Council would have crafted. In every other region of the United States, where the state was not governed by the Dillon Rule, local governments, as a region, could get together and plan a transportation system, giving the authority to adopt those revenue sources, whether tolls or gas taxes, to fund the transportation plan. Virginia was one of the few states which did not permit this. Local government had only authority given by the State. In this context, local governments, through the Metropolitan Planning Organization, sent a transportation package to Richmond, included six major projects – the widening of I-64 in Newport News up to 199 in James City County, the widening of I-664 between the Hampton Coliseum and the Monitor Merrimac Bridge Tunnel, the crossing of Hampton Roads through an additional third crossing parallel to the Monitor Merrimac Bridge Tunnel, the improvement of Route 460 South of the James River, a new tunnel between Portsmouth and Norfolk, and improvements to I-64 in Chesapeake. The legislature provided the

11. New Business and Councilmember Comments

proposed package. The question for City Council was whether to accept or reject the package and wait for the legislature to figure out what else they would do. Mayor Frank stated the community was already affected by road congestion. He indicated this plan would not solve all problems, but was a long way toward solving our problem, and gave local government an opportunity to address local transportation and regional transportation issues. It was his belief that transportation needed to be moved forward in Hampton Roads. He expressed gratitude to the legislature for providing something and to the Governor for trying to improve it, and to his colleagues who gave consideration to the package.

Councilman Haskins stated that everyone recognized the need for better transportation. He reiterated that he would have liked to have seen public hearings when fees and taxes were invoked and that it was only fair for the citizens to have a say.

Vote on Roll Call:

Ayes: Scott, Whitaker, Allen, Bateman, Frank

Nays: McMillan, Haskins

Vice Mayor Allen expressed concern about Ms. Raney's statement about sustained ability and eminent domain as there was no philosophical link between the two. Eminent Domain was the process used by the government to take property when the property could not be legitimately purchased. Sustainability dealt with the green movement, things were not built or constructed until it could be projected how that piece of property would be sustained.

Councilman Haskins concurred with Vice Mayor Allen, and added that every State had their own eminent domain laws.

Mayor Frank shared a joint statement, issued by Carl T. "Lone Eagle" Custalow, Chief of the Mattaponi Indian Tribe and Joe S. Frank, as Mayor of the City of Newport News. The Tribe and the City settled the lawsuit between them concerning the King William Reservoir Project, that had been pending in Virginia since 1998. The suit was originally filed by the Tribe to challenge the Virginia State Water Control Board's permit for the project. After the Commonwealth was dismissed as a defendant by the Supreme Court last year, it was amended to state claims against the City under the 1677 Treaty at Middle Plantation between the King of England and Virginia's Tributary Tribes under Virginia's Law of Riparian Rights and under the Doctrine of Tribal Reserved Water Rights. The settlement was possible because the Tribe and the City have mutual respect for each other and for the sincerity which they hold their positions. In the event the Reservoir was built, the Tribe and the City desired to be good neighbors. Although the Tribe and the City did not agree on all issues, they were pleased to have reached a compromise in this matter. To this end, the settlement provided that the Tribe and the City will work together in good faith to resolve other issues concerning the project and that the Tribe would not file any additional suits to challenge the project under the Treaty or any Virginia Law. Though it would not resort to the Courts on such matters, the Tribe did remain free to fully participate in regulatory proceedings and to express its concerns about the project to State officials and regulators. Because the Tribe continued to have concerns about the impacts of the project, the

11. New Business and Councilmember Comments

Agreement left the Tribe free to continue its federal court challenge to the Corps of Engineers permit, which was now pending in the U. S. District Court for the District of Columbia. The settlement provided \$650,000.00 to the Tribe to compromise and resolve the disputes concerning water rights and the 1677 Treaty. While Newport News did not believe this project would cause any problem and the Tribe did not believe any amount could compromise and compensate it for the problems it perceived it will have, their mutual desire to end the litigation and remove the legal dispute as an obstacle to becoming good neighbors should the reservoir be built, has led them to reach this compromise of their differences. Further, the Tribe was reluctant to continue its law suit because of the importance of the 1677 Treaty to other Indian Tribes. The Tribe and the City were pleased to reach this conclusion to the long-running lawsuit between them, and thus have created a foundation for better understanding and cooperation in the future. This statement was signed by Carl T. "Lone Eagle" Custalow, Chief of the Mattaponi Indian Tribe and Joe S. Frank, as Mayor of the City of Newport News.

THERE BEING NO FURTHER BUSINESS,  
ON MOTION, COUNCIL ADJOURNED AT 8:37 P.M.

Mabel V. Washington, CMC  
City Clerk

Joe S. Frank  
Mayor  
Presiding Officer

A true copy, teste:

City Clerk