

MINUTES OF WORK SESSION
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10th FLOOR CONFERENCE ROOM
2400 Washington Avenue
June 24, 2008
3:00 p.m.

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

ABSENT: None ----- 0

OTHERS PRESENT: Randy W. Hildebrandt; Stuart E. Katz; Mabel V. Washington; Alan Archer; Neil Morgan; Cynthia Rohlf; Butch Blanks; Allen Jackson; Councilmember-elect Tina Vick; Greg Jones; Sheriff Gabriel Morgan; Brian Ramaley, Thomas Murphy; Al Riutort; Sheila McAllister; Harold Roach; Everett Skipper; John Kaoudis; Mike Griffin; Rhonda Everton; Joseph DuRant; John Hightower; Pam Bates; H. Steven Goad; Paul Miller; Leigh Ann Woisard; Jennifer Walker; Cleder Jones; Lottie Vincent; and Kim Lee

I. Presentation by Cox and Verizon Cable TV Systems: “Analog to Digital Conversion”

Mr. Randy Hildebrandt, City Manager, introduced Mr. H. Steven Goad, Manager of Government Relations, Cox Communications and Mr. Paul Miller, Franchise Service Manager, Verizon, to report on the analog to digital television conversion, which would take place on February 17, 2009, and how it would affect citizens.

Mr. Goad recognized Ms. Leigh Ann Woisard, Vice President, Government and Public Affairs, Cox Communications. Mr. Goad reported that Congress mandated that by February 17, 2009, full-powered television broadcast stations, i.e. ABC, NBC, CBS and Fox affiliates, must return their analog spectrum to the government and broadcast only digital signals over public airways. He stated analog televisions that relied on “rabbit ears” or rooftop antennas to access local broadcast stations would no longer receive broadcast signals. However, cable customers were all set for the transition as long as they had any level of cable service, regardless of the type of television they owned.

Mr. Goad explained the government was implementing the change to relieve extra capacity for emergency responder communication used by police and fire departments to enhance their ability to react to emergencies. In addition, the change enabled television stations to send clearer signals over the airwaves with better picture and sound quality.

Mr. Goad reported consumers who relied on antennas for local broadcast signals needed to take action before February 17, 2009. To continue to view the broadcast signals, consumers needed to obtain a cable television contract, purchase an analog-to-digital converter, or purchase a new digital television.

Mr. Goad stated the government created a coupon program to help consumers purchase an analog-to-digital converter box. He stated a family could apply for up to two \$40 coupons to be used towards the purchase of a converter, which was available at select retail outlets.

Councilwoman Scott inquired about the cost of an analog-to-digital converter box. Mr. Miller replied the costs varied from \$48 to \$93, and noted each box came with a remote control. Each household could receive two \$40 coupons. It was important to note the coupons expired within 90 days of their receipt.

Mr. Goad stated televisions manufactured after 2004 were equipped with a digital tuner, and any television manufactured before 1998 was not.

Councilman Haskins inquired about the reason for the conversion. Mr. Miller replied the analog service took an enormous amount of bandwidth and frequency. The federal government mandated the conversion to allocate additional bandwidth to emergency responders.

Councilwoman McMillan inquired whether small battery operated televisions, used during power outages, would still work after February 2009. Mr. Goad replied the television would only work with an adapter.

Councilwoman McMillan voiced concern that the analog-to-digital converter would not work without electricity. Mr. Goad replied the analog-to-digital converter, offered by Cox Communications, required electricity to work; however, he was not aware whether other manufacturers offered a battery operated model.

Councilwoman Scott inquired about the procedure to inform residents about the change from analog-to-digital. Mr. Goad responded that existing cable customers would not be affected by the change. However, non-cable residents needed to be informed about the conversion and the \$40 coupon offer. Mr. Goad stated municipalities across the country were employing different techniques.

Mayor Frank voiced concern that in an emergency, when communities were without electricity, portable televisions that citizens purchased and relied on in an emergency would cease to operate. He felt the City needed to communicate that information to its citizens. City Manager Hildebrandt stated he would try to get the information out in the Fall as the February 2009 deadline approached.

Councilwoman Scott inquired how the conversion would affect landfill capacity. City Manager Hildebrandt replied the City already had a hazardous waste collection program, and indicated this was a good time to advertise the program.

Miscellaneous Matter – Downing-Gross Cultural Arts Center Carryover Funding

City Manager Hildebrandt recalled several unforeseen construction issues that delayed the full occupancy of the new Downing-Gross Cultural Arts Center. He stated, while in the process of resolving the construction issues, the full operation of the Center was delayed until the start of FY 2009. He explained because the FY 2008 operating budget for Downing-Gross was based on a mid-year opening, there was a surplus of approximately \$200,000 in unspent appropriations. Meanwhile, there were two unfunded but key projects pending at the Downing-Gross Center: 1) beginning development of the Anderson-Johnson Gallery; and 2) the incorporation of a public art sculpture. City Manager Hildebrandt recommended appropriating \$100,000 to move forward with the City-funded design and initial layout of the Anderson-Johnson Gallery and \$100,000 for creation of a public art (sculpture) for the new Center. While this transaction reduced the City's anticipated FY 2008 Operating Budget surplus by \$200,000, he recommended that City Council support the proposal to fund these important projects for the Downing-Gross Cultural Arts Center. The City was still well beyond its \$5 to \$6 million surplus figure and the \$200,000 would have a marginal affect on the surplus in the beginning of FY 2009. (A copy of memo, "Downing-Gross Cultural Arts Center Carryover Funding," is attached and made a part of these minutes.)

Councilwoman McMillan stated she realized there were very strong feelings about public art. However, the City Council discussed spending, and fiscal stress. She felt \$100,000 was a lot of money to put into something that, in her opinion, was not a priority at this point in time. She agreed it was a good thing, and would enhance the Center, but felt, surely, one could find something else that had been waiting and needed to be done, to spend \$100,000 on. City Manager Hildebrandt agreed that the City could always spend \$100,000 on other items. The City had to recognize that over \$10 million was invested in creating the Downing-Gross Center. He felt it would be appropriate to have a public art sculpture in the Southeast community, associated with the Center. He apologized to the Vice Mayor that the money the City thought it had been reserving in the account, for that purpose, was spent with the other capital expenses that had to be addressed to complete the project. This was a way to restore that \$100,000, to have seed money to deal with the Anderson-Johnson Gallery. Eventually, the Foundation the City was working on creating would have to raise the bulk of the money to make the gallery a success.

Councilwoman McMillan stated she was not objecting to the Anderson-Johnson Gallery. She understood the art work had been waiting a long time, to be categorized and put in place to be enjoyed. She apologized, but felt \$100,000, at this point in time, for a piece of public art was a waste of money. She felt people would come to the Center without a piece of public art in place. She understood Vice Mayor Allen did not agree with her, but was sorry, because she felt very strongly.

Vice Mayor Allen stated Councilwoman McMillan was welcome to her opinion. He indicated it was a good thing he was not going to be on Council to vote when the North District recreation center proposal was considered.

Councilwoman McMillan stated the North District recreation center would not have a piece of public art sitting in front of it at a cost of \$100,000. Vice Mayor Allen disagreed and stated the recreation center would have a piece of public art in front of it. Councilwoman McMillan hoped it would not, because she felt it was a total waste of money.

Vice Mayor Allen stated Councilwoman McMillan had a very narrow interpretation of what the public was and indicated the uplifting of people included a very broad application of issues and things. He stated City Council had discussed the Downing Gross Center and had appropriated money for it as the City Manager had explained. The City Manager was now bringing the money back because the City had used it to finish out the building through contract. Yes, there was always something else or somehow you could do things, but the history of his community had always been a majority determining what was good and not good to spend money on in his community. He stated Councilwoman McMillan's history, on City Council, had basically been opposed to things in his community.

Councilwoman McMillan disagreed with Vice Mayor Allen and stated it was not true that she historically opposed projects in his community. Vice Mayor Allen stated Councilwoman McMillan had consistently opposed the Achievable Dream Tennis Center, and the Achievable Dream renovation of the high school for those students who needed it desperately. Councilwoman McMillan stated she gave reasons why they were opposed. She stated Vice Mayor Allen's district was not the only district or community that had needs nor the only district or community that had children that had needs. She asked Vice Mayor Allen to stop talking about "your" community.

Vice Mayor Allen stated he supported things continually across the breath of the City, since he had been on City Council, while Councilwoman McMillan chose what she wanted to support. Councilwoman McMillan disagreed that Vice Mayor Allen had supported things continually across the breath of the City. Vice Mayor Allen asked Councilwoman McMillan to list the projects he had not supported?

Councilwoman McMillan stated every time something came up, Vice Mayor Allen stated he was not going to support the North District Community Center and "whine, whine, whine." Vice Mayor Allen stated "whined hell" and inquired who voted for the North District Community Center.

Councilwoman McMillan stated that she had voted for many things in the South district, and was not going to sit and go "tit for tat" with Vice Mayor Allen on who voted for what.

Vice Mayor Allen stated the record read that he had supported everything that occurred in Councilwoman McMillan's district and questioned what she thought he had not supported. Councilwoman McMillan replied, "you have not supported the North District Community Center, because you had not made it a priority," Vice Mayor Allen stated, "it's not my priority, but I voted to support it, continually, from the land purchase." He indicated he said to Councilwoman McMillan,

very clearly, when Councilwoman Scott came on City Council and supported equally what happened in Newport News, that Councilwoman McMillan did not, that he would support the North District Recreation Center. He did raise the question about the master plan that was approved for community centers. Councilwoman McMillan stated they were not talking about the master plan, but were talking about a surplus and a priority for that surplus.

Vice Mayor Allen recalled a master plan was developed for recreation centers. He stated funding for three centers was appropriated and City Council worked through the process. City Council stepped back from the second center and built the tumbling center in Riverview, which was to be converted at some point into a community center. That community stepped back and said let the fourth center be in the Northeast community. He supported that, but did raise a question, that City Council had designated three centers and the Northeast Community Center was not one of the three centers. He felt the North district should get in line with the process that had occurred in building recreation centers. City Council stepped back from the second Southeast Center and built the Achievable Dream which Councilwoman McMillan voted against. City Council then came back and Councilmen Haskins and Bateman agreed to delay the center in Riverview for the purpose of moving the North District Community Center forward, which Vice Mayor Allen reminded that he voted for. Vice Mayor Allen stated the “garbage” that Councilwoman McMillan spoke was “pure unadulterated garbage,” and was not the truth. He asked that the record read that what Councilwoman McMillan said was not true, and indicated the record would clearly define his votes and arguments. He had never been opposed to anything in the North district. He supported the library, the train station, Lee Hall, Endview, etc. He felt Councilwoman McMillan was not speaking the truth and the record would not support her.

Councilwoman McMillan expressed to the City Manager that she had stated her opinion on the \$100,000 and asked that City Council move forward.

Councilwoman Scott inquired whether Vice Mayor Allen had considered the Anderson Johnson collection to be a moving exhibit in order to get money from other Cities, since City Council was having difficulty coming up with funds to do the permanent exhibit at the Downing Gross Center. Vice Mayor Allen replied there was enough material to have a stationary and mobile exhibit. He stated the City needed to have the curator and designer determine what the permanent artifacts were and what could be transported.

City Council agreed 6:1 to accept the City Manager’s recommendation for the \$200,000 in qualifying facility construction costs be moved from the Downing-Gross CIP construction account to the FY 2008 Operating Budget for the Anderson-Johnson Gallery and public art design projects.

Miscellaneous – Paid Personal Leave

City Manager Hildebrandt stated the City ordinance allowed employees to carryover, from year to year, paid personal leave (PPL) of up to 640 hours (864 hours for 24-hour firefighters). He stated, effective July 1, 2008, a new carryover of 400 hours (560 for 24-hours firefighters) would be established. The modification to the new carryover neglected to note that the cap of 640 hours continued. The 640 hour cap would continue through FY 2009 and apply to the end of the fiscal year. This was a minor amendment to the City Code that clarified the 640 hour cap for most employees (864 for firefighters) would remain in effect through the transition period. He planned to bring the item up under the new business section of the June 24, 2008, Regular Meeting of City Council.

Mayor Frank voiced concern about the June 24, 2008, Regular Meeting agenda, in which two items were revised that required a re-vote by City Council, due to errors when the information came to City Council the first time. He felt staff was not observing the material carefully enough before it came to City Council. City Manager Hildebrandt stated he and staff would be more vigilant in correcting errors before the legislation was placed on the agenda.

II. Financing of the King William Reservoir Land Acquisition Financing

City Manager Hildebrandt stated he learned late last week and confirmed today that the Virginia Resources Authority (VRA) arrangement to lend the City funding at 3.04% had fallen through because of a commitment that had not been honored by SunTrust. He stated there was some confusion between VRA and SunTrust about the use of the money. SunTrust agreed to lend the funding to VRA at a higher interest rate. The City's financial advisors stated the City could go out and borrow the funding on its own for less than what SunTrust was proposing to VRA. City Manager Hildebrandt recommended that City Council withdraw the resolution from the June 24, 2008, Regular Meeting of City Council to have the issue re-advertised in August 2008. He stated the City would take the approach of issuing its own note for five years. He felt the City could attract an interest rate of something less than 3.5%.

Mayor Frank understood that much of the soft costs would be paid by the VRA if the City borrowed money through them, i.e. the bond counsel, opinions, etc. He felt the City should not just be concerned about the interest rate differential. He suggested the City Manager consider the new interest rate by issuing its own bonds directly to the market as opposed to accepting an increased rate from VRA. The City needed to consider the soft costs that VRA absorbed in whether it was a savings or not over the life of the bond. City Manager Hildebrandt stated he would evaluate the issue, but SunTrust was proposing 1% or \$200,000 more in cost over five years. The bond issuance costs were not close. City Manager Hildebrandt felt it was possible that VRA could offer an alternative that was closer to the 3.5%, but at this point he could not say. He felt the City should proceed in order to have the financing in place by August 2008.

Councilwoman Scott inquired about the interest rate the City hoped to acquire. City Manager Hildebrandt felt the interest rate would amount to less than 3.5%. He stated the total cost to the City, in addition to 1% for taxes the City would pay, if it leased land from the County, would still amount to 4.5%. The City was trying to find the least expensive cost for borrowing the money.

III. Briefing on Downtown Public Building Construction

City Manager Hildebrandt introduced Mr. Neil Morgan, Assistant City Manager, to report on the renovations and improvements to various downtown public buildings.

Mr. Morgan reported the downtown public building renovations and improvements were made to the following: 1) Public Safety Building (Jail); 2) Adult Detention Facility (Jail Annex); 3) Municipal Building (Juvenile & Domestic Relations Court); 4) Justice Building (former CSB building); and 5) Circuit Courthouse building. He reminded City Council had voted on specific actions related to the construction and renovation of the structures, but because of various changes, staff thought it was important to provide a status report.

Mr. Morgan reported, while working on renovations to the Jail and Justice Building, the City Manager was advised, in 2006, that the City would receive an additional Judge for the Juvenile Domestic Relations Court. This announcement required the City to alter the project to include a location for the new Judge. The original plan for the Justice Building included a \$10 million comprehensive renovation project in the CIP, and the cost was cut to \$4 million. The City decided not to move forward with the courtroom in the Circuit Court due to increased construction costs.

Mr. Morgan reported the Jail Annex was a major initiative that would increase the capacity of the jail. He stated one hundred beds would be online by mid-October 2008. The most significant piece included improving the safety of the jail in terms of pressurizing the stairwells, adding a sprinkler system, automating doors and renovating the booking area. Staff was confident that the numbers in the CIP would cover the appropriations for all of the work necessary to complete the projects. Mr. Morgan stated future court needs would have to be evaluated, due to history, plans and new judgeships that might be assigned to the City by the General Assembly. He suggested that a study be done for future courtroom needs that went beyond what had presently been recommended. He introduced Mr. John Kaoudis, Assistant Director, Department of Engineering, to report on specific details of the projects.

Vice Mayor Allen stated there was a "judicial think tank" in Williamsburg, National Center for State Courts, and inquired whether they had been included in the City's deliberations. Mr. Morgan replied the National Center for State Courts had not been included, but the City might include them in the next step. Vice Mayor Allen found that the State was more responsive when the Center's expert opinion was part of the project.

Mr. Kaoudis reported on the design, construction and financial updates for the five ongoing renovation improvement projects to public buildings in the downtown area. The five projects include: 1) Renovations to the Public Safety Building; 2) Expansion of the Adult Detention Facility; 3) Renovations to the Municipal Building; 4) Renovations to the Justice Building (former CSB); and 5) Renovations to the Courthouse Building. He reported the scope of work and status of the projects reflected a multi-year capital commitment of just under \$18 million. The \$18 million considered prior appropriations and authorized bond funds for planned appropriation requests. (A copy of power point presentation, "Downtown Public Safety & Court Improvements," noting the specifics of the projects, is attached and made a part of these minutes.)

Mayor Frank inquired whether the space utilized for inmate exercise at the former Juvenile Detention Building that was being renovated as the Jail Annex, could be utilized for additional jail cells in the future, since it was not presently being utilized for exercise. Sheriff Gabriel Morgan replied the City was required to have a certain amount of space for outside recreation, and, currently, did not meet the requirement. He indicated the State would not contribute funding for the exercise space to be converted to additional jail cells. The project probably could be done, but the State would not certify that space as livable.

Mayor Frank inquired what was presently being done to meet the exercise requirement. Sheriff Morgan replied the City presently did not meet the requirement.

Councilman Bateman inquired why the City pulled its bid for Phase I of renovations to the Public Safety Building. Mr. Kaoudis replied the bid was pulled due to an error that significantly affected the cost.

Councilwoman McMillan inquired about the disparity between the bid withdrawn and all the other bids that were too high. Mr. Mike Griffin, Architect Inspection/Asbestos, Department of Engineering, replied the first bid came in lower than the second bid after the corrections were made.

Mr. Kaoudis summarized the presentation by noting previous appropriations of \$3,500,000, with a balance remaining of \$1,319,200. He stated future Council action included: 1) project funding programmed in the City's FY 2007 CIP – Bonds Authorized and Unissued - \$750,000; and 2) project funding programmed in the City's FY 2008 CIP – Bonds Authorized & Unissued - \$3,000,000. Other future action included a Courts Needs Study to address long-term needs due to possible judge assignment and the number of courtrooms required. Mr. Kaoudis stated the public building projects represented a focused effort to address the City's immediate needs and highest priorities for Courts and jails.

Mayor Frank requested a report to include a detailed listing of funding spent and accomplished in the projects. He also requested that the report include a detailed comprehensive listing of the projects that needed to be completed with the total cost per project. He wanted specifics about funding already spent and what it was spent on as well as the remainder of funding to be spent and for what projects. Mr. Morgan replied he would have staff provide the report to City Council.

Miscellaneous Matter – Conditional Use Permit CU-08-243, Newport News School Board

City Manager Hildebrandt introduced City Attorney, Stuart Katz, to report on Conditional Use Permit CU-08-243, Newport News School Board, that was scheduled for the June 24, 2008, Regular Meeting of City Council.

City Attorney Katz reported when the Planning Commission recommended denial of a Conditional Use Permit it was the City's practice not to include a resolution for the permit in the agenda package. He stated he received an e-mail message on June 17, 2008, from Mr. Glen Hampton, Attorney for the applicant, stating he had spoken with the Mayor and was contacting other members of City Council. Mr. Hampton thought that because there was a good chance that City Council would approve the item, asked that an ordinance be prepared. City Attorney Katz stated he then called the Mayor who reminded him it was always good to be prepared. His office then prepared a resolution should City Council decide to vote in favor of the permit at the June 24, 2008, Regular Meeting of City Council. However, if City Council was inclined to vote in favor of the permit, it was his professional recommendation that they send the item back to the Planning Commission for further review of the conditions included in the resolution. He voiced concern about condition number one, which addressed a major drainage issue that affected the entire Southeast community. He acknowledged the professional help he received from the staff of the Department of Planning in assisting his office identify language, but he felt more technical input was needed from City staff. City Attorney Katz indicated Mr. Hampton voiced concerns about one of the conditions that dealt with the collapsing of the cell tower. He felt the City would be better served if the Planning Commission had another opportunity to study the issue.

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 4:39 P.M.

Jennifer D. Walker, CMC
Chief Deputy City Clerk

Joe S. Frank
Mayor
Presiding Officer

A true copy, teste:

City Clerk