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AGENDA

NEWPORT NEWS CITY COUNCIL
REGULAR CITY COUNCIL MEETING

AUGUST 9, 2016

City Council Chambers

7:00 p.m.

A. Call to Order

B. Invocation

- Pastor Justin White, City Life Church

C. Pledge of Allegiance to the Flag of the United States of America

D. Presentations

1. 2017 One City Marathon - Announcement of Charitable Partners
2. Resolution of Recognition: Mr. Michael Motley, Volunteer with the Newport News Police Department (NNPD) Community Education and Outreach Center

E. Public Hearings

1. Ordinance Authorizing the City Manager to Execute a Lease for Property Located at 524 J. Clyde Morris Boulevard to the Virginia Living Museum, Inc.
2. Ordinance Authorizing the City Manager to Execute A Deed of Easement to Lumos Networks, Inc., for the Installation of Fiber Optic Cable on City-owned Property Located at 100 City Farm Road
3. Ordinance Authorizing the City Manager to Execute an Agreement Allowing an Encroachment in a City Right-of-Way, Adjacent to Property Located at 694 J. Clyde Morris Blvd.

F. Consent Agenda

1. Minutes of the Special Meeting of July 12, 2016
2. Minutes of the Organizational Meeting of July 12, 2016
3. Minutes of the Work Session of July 12, 2016
4. Minutes of the Special Meeting of July 12, 2016
5. Minutes of the Regular Meeting of July 12, 2016
6. Ordinance Amending City Code, Chapter 6, Animals and Fowl; All Chapters and Sections
7. Ordinance Amending City Code, Chapter 26, Motor Vehicles and Traffic; Article V., Permit for Operation of Oversize or Overweight Vehicles or Moving Houses; Section 26-89, General Authority to Issue; and Section 26-94, Permit Fees and Charges

G. Other City Council Actions

1. Resolution Authorizing the City Manager to Execute a Second Amendment to the Project Development Agreement By and Between the City and Tri-City Management, Inc. (Windy Knolls Condominiums)
2. Resolution Approving the Issuance of up to \$104 Million of Revenue Bonds by the Economic Development Authority of the City of Newport News (EDA) for the Benefit of Virginia Baptist Homes, Inc. d/b/a LifeSpire of Virginia
3. Resolution Denying Jurisdictional Approval of Newport News Redevelopment and Housing Authority (NNRHA) Multi-family Housing Revenue Bond Issuance in an Amount Not to Exceed \$16 Million for the Ivy Tower Apartments Project

H. Appropriations

1. Department of Libraries and Information Services - Neisser Bequest: Main Street Library - \$9,217
2. Department of Public Works - FY 2017 Additional State Revenue for Street and Highway Maintenance: Residential Street Reconstruction/Resurfacing Contracts - \$302,276
3. Department of Parks, Recreation and Tourism – FY 2016 Capital Improvements Plan (CIP): Various Construction Projects, Renovations and Repairs of Parks and Recreation Facilities and Amenities – \$850,000
4. Department of Development – FY 2016 Bond Authorization: Southeast Community Redevelopment Initiatives – \$1,500,000
5. Waterworks Department – FY 2016 Capital Improvements Plan (CIP): Beach Road 12-Inch Dip Waterline Replacement Project – \$3,600,000

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

J. *New Business and Councilmember Comments

1. City Manager
2. City Attorney
3. City Clerk
4. Cherry
5. Harris
6. Price
7. Scott
8. Vick
9. Woodbury
10. Bateman

K. Adjourn

***THE BUSINESS PORTION OF THE MEETING WILL BE CONCLUDED NO LATER THAN 10:00 P.M. TO ALLOW PERSONS TO ADDRESS CITY COUNCIL UNDER "CITIZEN COMMENTS ON MATTERS GERMANE TO THE BUSINESS OF CITY COUNCIL."**

A. Call to Order

B. Invocation - Pastor Justin White, City Life Church

C. Pledge of Allegiance to the Flag of the United States of America

D. Presentations

E. Public Hearings

1. Ordinance Authorizing the City Manager to Execute a Lease for Property Located at 524 J. Clyde Morris Boulevard to the Virginia Living Museum, Inc.

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND THE VIRGINIA LIVING MUSEUM, INC. FOR PROPERTY LOCATED AT 524 J. CLYDE MORRIS BOULEVARD.

BACKGROUND:

- The City of Newport News (City) has leased property located at 524 J. Clyde Morris Boulevard to the Virginia Living Museum, Inc. (VLM) since September 22, 1966.
- The current Lease between the City and VLM will expire August 31, 2016.
- The new lease contains the same terms and conditions as the current lease and the term of the proposed lease is for a five-year period, which will commence September 1, 2016, and terminate August 31, 2021.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re VLM Lease w-City

Attachment

sdm14520 Ord Authorizing Lease between City and VLM

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Lease Renewal to the Virginia Living Museum

The City has leased 20.96± acres of the 70.72-acre parcel located at 524 J. Clyde Morris Boulevard (see attached map) to the Virginia Living Museum (VLM) since September 22, 1966 (VLM was then known as the Peninsula Junior Nature Museum and Planetarium, Inc.). The original thirty-year land lease has been followed by four subsequent five-year leases. The current lease is set to expire August 31, 2016.

As you know, a request has been received from VLM to approve a new five-year lease under the same terms and conditions as the current lease. VLM has conformed to all terms and conditions of the current lease. The term of the proposed lease is to commence September 1, 2016, and terminate August 31, 2021. The annual rent is to remain \$1.00 and VLM will continue to be responsible for all public utilities, maintenance and repair of the property and appropriate insurance.

The Virginia Living Museum is an important and highly-recognized facility in our community. I recommend Council approve the Ordinance, prepared and provided to you by the City Attorney's Office, authorizing the requested lease to VLM and authorizing me to execute any documents necessary to effectuate the transaction.


James M. Bourey

JMB:tcf

Attachment

cc: Florence G. Kingston, Director, Department of Development

Virginia Living Museum Approximate Lease Boundaries



ORDINANCE NO. _____

AN ORDINANCE 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 LEASE BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND THE VIRGINIA LIVING MUSEUM, INC. DATED THE 9TH DAY OF AUGUST, 2016.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Lease by and between the City of Newport News, Virginia, and the Virginia Living Museum, Inc. dated the 9th day of August, 2016.
2. That a copy of the said Lease is attached hereto and made a part hereof.

THIS LEASE, made this 9th day of August, 2016, by and between **CITY OF NEWPORT NEWS**, a Municipal Corporation in the Commonwealth of Virginia, hereinafter referred to as "City" and the **VIRGINIA LIVING MUSEUM, INC.**, a non-profit, non-stock corporation organized and existing under the laws of the Commonwealth of Virginia, hereinafter referred to as "Lessee."

WITNESSETH: That in consideration of the terms, conditions, provisions and covenants hereinafter set forth, which on the part of Lessee are to be kept and performed, City does grant, lease and demise unto Lessee that certain lot, piece or parcel of land consisting of 20.96 acres, more or less, located at 524 J. Clyde Morris Boulevard in the City of Newport News, Virginia (the "demised premises" or "premises"), and further described as follows:

Beginning at a point on the east right of way line of the Chesapeake and Ohio Railway said point being S 27° 32' 01" E 170.88 feet from the intersection of the south right of way line of J. Clyde Morris Boulevard and the east right of way line of the Chesapeake and Ohio Railway, and from the point thus established thence along the east right of way line of the Chesapeake and Ohio Railway S 27° 32' 01" E 869.35 feet, thence N 62° 27' 59" E 320 feet, thence N 6° 01' 09" W 604.78 feet, thence N 62° 33' 39" E 580 feet, thence N 27° 26' 21" W 765 feet, thence S 56° 17' 33" W 156.94 feet, thence S 42° 17' 33" W 917.37 feet, thence S 27° 32' 01" E 73.48 feet, thence along an arc with a radius of 305 feet with a chord bearing S 45° 04' 01" E 59.27 feet, thence S 62° 27' 59" W 78.25 feet to the east right of way line of the Chesapeake and Ohio Railway, the point of beginning, all as shown on plat entitled, "Proposed Site for Peninsula Junior Nature Museum and Planetarium", dated June 28, 1965.

TO HAVE AND TO HOLD the said demised premises unto the said Lessee for the term of five (5) years commencing on September 1, 2016, and terminating on August 31, 2021, at the rental rate of One Dollar (\$1.00) per annum, said rental rate for all five (5) years payable upon the execution of this Lease, and subject to the following terms and conditions:

1. The demised premises shall be used as a museum and for no other purpose.

2. Lessee has examined and knows the condition of said premises and shall maintain said property in good condition. At the termination of this Lease, Lessee shall leave the premises in like condition as found, ordinary wear and tear excepted.

3. Lessee shall pay for all repairs, maintenance, insurance and public utilities. The amount of fire insurance shall be for the full value of the buildings on the demised premises. In the event of fire or other casualty, however arising, which destroys a building or buildings or other improvements or any part thereof, then, and in that event, City shall have no obligation to replace or repair any such building or buildings or other improvements, or any part thereof.

4. Lessee shall not permit or suffer any nuisance to be created or maintained on the demised premises.

5. Lessee shall not assign this Lease or sublet the whole or any portion of the demised premises without the prior written consent of City.

6. If at any time during the term of the Lease, Lessee shall be adjudged bankrupt or insolvent by any Federal or State court of competent jurisdiction, such adjudication shall terminate and cancel this Lease without any further action on the part of either party hereto, and City may at once re-enter and take possession of the premises.

7. City shall not be liable to Lessee or any other person, firm or corporation for any loss or damage suffered during the term of the Lease on account of any defective condition of the premises or any building, structure or equipment upon the premises, and Lessee assumes all risks to persons or property due to latent or patent defects in the premises and fixtures thereon.

8. It is understood and agreed that the Lessee will indemnify, defend, protect and save harmless City and its officers, agents and employees from and against all losses and claims of physical damages to property and bodily injury or death to any person or persons, including costs,

reasonable attorney's fees and defense costs, which may arise out of or be caused by Lessee's use and maintenance of said premises (including any building, structure, or equipment thereon) or any claim resulting from Lessee's tenancy. In addition, Lessee agrees to obtain, and continuously keep in force, a liability insurance policy with a company licensed to do business in the Commonwealth of Virginia. The policy shall at least provide for the following coverage:

- a. Bodily injury or death to any person or persons \$1,000,000.00
- b. Physical damage to property \$ 500,000.00

Said policy shall provide that City and its officers, agents and employees are added as additional insureds under the terms of the policy, which policy and coverage shall first be approved by City's Administrator of Self Insurance Programs. Failure to keep the required insurance coverage continuously in force shall constitute an event of default of this Lease.

9. The terms, conditions and covenants of this Lease shall be kept and performed by City and Lessee and shall be binding upon their successors and assigns. No waiver of any breach of any term, condition or covenant contained shall be construed to be a waiver of said term, condition or covenant itself, or of any subsequent breach thereof, or of this Lease.

10. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia. The parties hereby irrevocably submit themselves to the original jurisdiction and venue of the state courts located within the City of Newport News, Virginia, with regard to the any controversy arising out of, relating to, or in any way concerning the premises or the Lease.

11. Severability. If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those to which it is invalid or

unenforceable, shall not be affected hereby, and each provision of this Lease shall be valid and be enforced to the full extent permitted by law.

12. This Lease embodies the entire understanding of the parties hereto and supersedes all prior agreements between the parties, whether written or oral.

WITNESS the following signatures and seals:

CITY OF NEWPORT NEWS

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

VIRGINIA LIVING MUSEUM, INC.

By: _____
President

sdm14521

E. Public Hearings

2. Ordinance Authorizing the City Manager to Execute A Deed of Easement to Lumos Networks, Inc., for the Installation of Fiber Optic Cable on City-owned Property Located at 100 City Farm Road

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS VIRGINIA AND LUMOS NETWORKS, INC. TO INSTALL FIBER OPTIC CABLE ON CITY-OWNED PROPERTY LOCATED AT 100 CITY FARM ROAD.

BACKGROUND:

- A request has been received from Lumos Networks, Inc. (Lumos) to grant a utility easement to accommodate the installation of fiber optic cable to the privately-owned telecommunications tower located on the parcel.
- The expiration of the easement coincides with the City's land lease to the owner of the telecommunications tower to ensure the City has maximum flexibility should the land lease not be renewed.
- Lumos has agreed to the fair market value of \$300 for the short-term utility easement.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Deed of Easement to Lumos

LumosNetworksEasement Map

sdm14516 Authorizing re Deed of Easement - Lumos Networks, Inc

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Utility Easement Over City-Owned Property at 100 City Farm Road

Lumos Networks, Inc. (Lumos) has now resubmitted its prior request that the City grant a utility easement located on City property at 100 City Farm Road as shown on the attached plat entitled "EASEMENT PLAT SHOWING A 10' LUMOS NETWORKS EASEMENT ACROSS THE LANDS OF THE CITY OF NEWPORT NEWS, PARCEL ID.: 190000101 CITY OF NEWPORT NEWS, VIRGINIA".

This easement is to accommodate installation of fiber optic cable to the privately-owned telecommunications tower located on the parcel. As such, the expiration date of the easement coincides with the City's land lease to the owner of the telecommunications tower to ensure the City has maximum flexibility should the land lease not be renewed. The current renewal period for the land lease expires April 30, 2020. Lumos has agreed to the fair market value of \$300 for the short-term utility easement.

I recommend Council adopt the Ordinance, prepared and provided to you by the City Attorney's Office, authorizing the execution of a Deed of Easement between the City and Lumos for a utility easement over City-owned property located at 100 City Farm Road, and authorize me to execute any documents necessary to effectuate the transaction.


James M. Bourey

JMB:tcf

Attachment

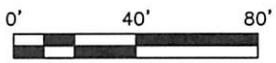
cc: Florence G. Kingston, Director, Department of Development

NAD 83, VA SOUTH ZONE
(VA RTK-GPS WITH SMARTNET CORRECTIONS)

THIS EASEMENT PLAT WAS PREPARE FROM AN ACTUAL LIMITED GROUND SURVEY WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY BE SUBJECT TO ITEMS DISCLOSED BY SUCH. NOT ALL IMPROVEMENTS OR EASEMENTS MAY BE SHOWN. NOT ALL SUBSURFACE ITEMS MAY BE SHOWN. THIS EASEMENT PLAT IS NOT A BOUNDARY SURVEY AS REGULATED BY THE COMMONWEALTH OF VIRGINIA.

CHARLIE M. FAULK ET. UX.
PARCEL ID: 190000118
INSTRUMENT NO:
0012841218
#435 MENCHVILLE ROAD

CITY OF NEWPORT NEWS
PARCEL ID: 190000101
INSTRUMENT NO: 0000390430
#100 CITY FARM ROAD



DATE: 04/01/2016
SCALE: 1"=40'
JOB NO.: 55160003.01
REF: LUMOS NETWORKS

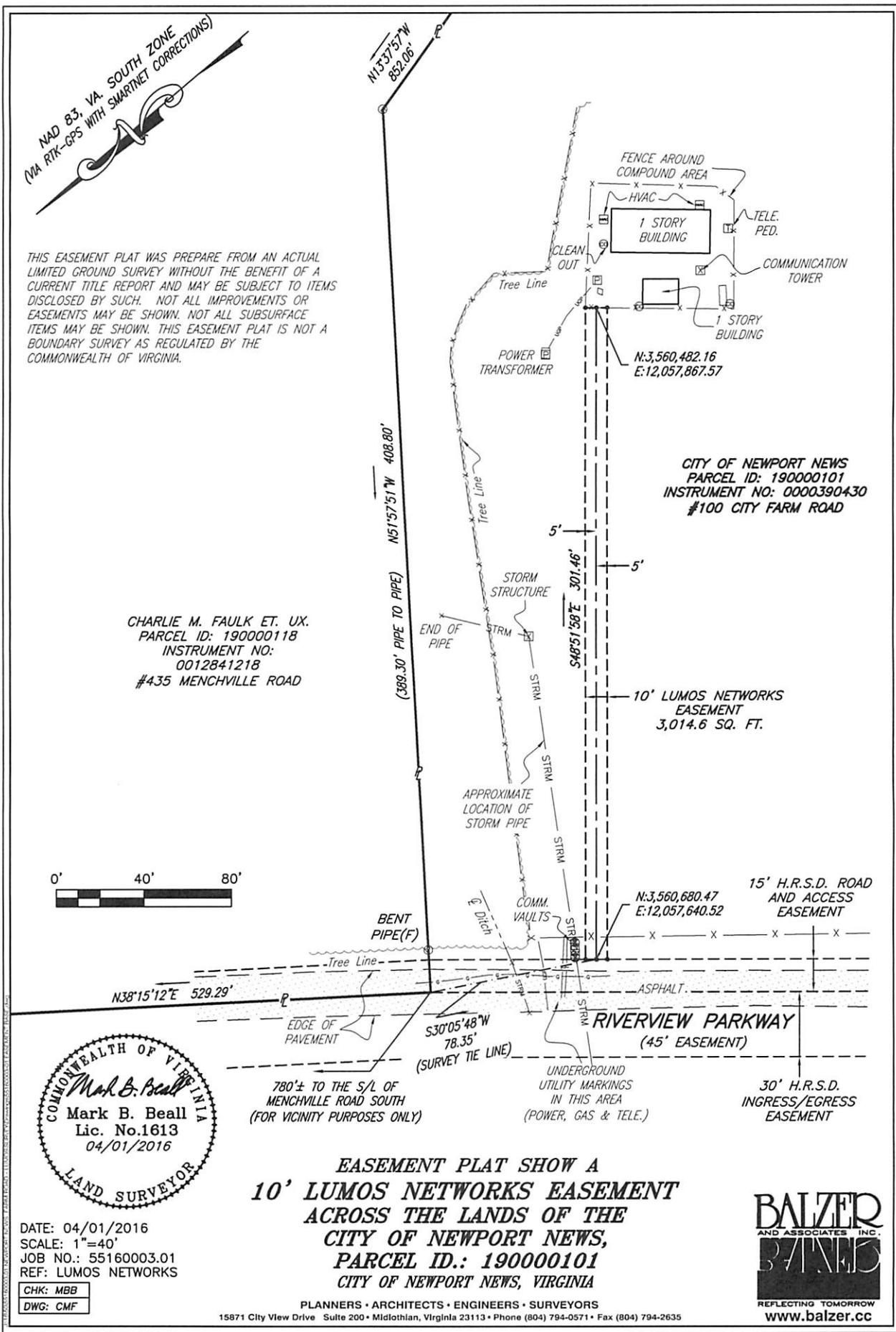
CHK: MBB
DWG: CMF

**EASEMENT PLAT SHOW A
10' LUMOS NETWORKS EASEMENT
ACROSS THE LANDS OF THE
CITY OF NEWPORT NEWS,
PARCEL ID.: 190000101
CITY OF NEWPORT NEWS, VIRGINIA**

PLANNERS • ARCHITECTS • ENGINEERS • SURVEYORS
15871 City View Drive Suite 200 • Midlothian, Virginia 23113 • Phone (804) 794-0571 • Fax (804) 794-2635



REFLECTING TOMORROW
www.balzer.cc



ORDINANCE NO. _____

AN ORDINANCE 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 DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS AND LUMOS NETWORKS, INC., DATED THE 9TH DAY OF AUGUST, 2016, FOR AN EASEMENT TO INSTALL FIBER OPTIC CABLE ON CERTAIN CITY-OWNED PROPERTY LOCATED AT 100 CITY FARM ROAD IN THE CITY OF NEWPORT NEWS.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Deed of Easement by and between the City of Newport News and the Lumos Networks, Inc., dated the 9th day of August, 2016, for an easement to install fiber optic cable on certain City-owned property located at 100 City Farm Road in the City of Newport News.
2. That a copy of the said Deed is attached hereto and made a part hereof.

100 City Farm Road

Prepared By:
City Attorney's Office
2400 Washington Avenue, 9th Fl.
Newport News, VA 23607
Tel: (757) 926-8416
Fax: (757) 926-8549

Exemption Claimed Under Section
58.1-811.C.4 For Taxes Imposed by
Section 58.1-802 on a Conveyance by
a Virginia City.

Title Insurance: Unknown
Deed prepared without benefit of title examination

THIS DEED OF EASEMENT made this 9th day of August, 2016, by and between the **CITY OF NEWPORT NEWS**, a Municipal Corporation in the Commonwealth of Virginia, Grantor, and **LUMOS NETWORKS, INC.**, a Virginia corporation, Grantee, whose mailing address is One Lumos Plaza, Waynesboro, VA 22980..

WITNESSETH

That for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to it in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, the Grantor does hereby grant, unto Grantee, for a term to expire on April 30, 2020, the non-exclusive right, privilege, and easement of right-of-way to install, operate, maintain, inspect, repair, replace and remove fiber optic cable and conduit across and under property of the Grantor, and more particularly described as follows:

All that 10' wide easement, containing 3,014.6 Square Feet, more or less, identified as "10' LUMOS NETWORKS EASEMENT 3,014.6 SQ. FT." on that certain easement plat entitled "EASEMENT PLAT SHOW A 10' LUMOS NETWORKS EASEMENT ACROSS THE LANDS OF THE CITY OF NEWPORT NEWS, PARCEL ID: 190000101, CITY OF NEWPORT NEWS, VIRGINIA," dated April 1, 2016, and prepared by Balzer and Associates, Inc., which said plat is attached hereto and made a part hereof for a more complete description of said easement.

With the right of ingress and egress over lands of Grantor adjacent to the above described easement for purposes of exercising the rights herein granted, in such a manner as shall occasion the least practicable damage and inconvenience to Grantor.

GRANTEE shall promptly repair any damage to GRANTOR'S property resulting from the exercise of GRANTEE'S rights herein granted, and shall restore the surface of the easement to its original condition as nearly as reasonably possible. Should GRANTEE encounter any historical or archaeological artifacts in the exercise of its rights granted herein, it shall immediately cease any activity that could disturb or damage such artifacts and notify GRANTOR.

TO HAVE AND TO HOLD the said easement unto the Grantee, it successors and assigns for the purposes and under the conditions set out herein.

[Signature Page Follows]

WITNESS the following signatures and seals:

CITY OF NEWPORT NEWS, VIRGINIA

By: _____
James M. Bourey
City Manager

ATTEST:

Mabel Washington Jenkins, MMC
City Clerk

COMMONWEALTH OF VIRGINIA

City of Newport News, to-wit:

I, _____, a Notary Public in and for the City and Commonwealth aforesaid, whose commission expires on the ___ day of _____, ____, do hereby certify that the CITY OF NEWPORT NEWS, by its City Manager, and attested by its City Clerk, whose names are signed to the foregoing writing, hereto annexed, have each acknowledged to the same before me in my City and Commonwealth aforesaid.

GIVEN under my hand this ___ day of _____, 2016.

Notary Public

Registration No. _____

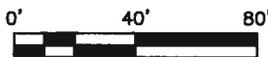
sdm14517

MAD 83, VA. SOUTH ZONE
(VA RTK-GPS WITH SMARTNET CORRECTIONS)

THIS EASEMENT PLAT WAS PREPARED FROM AN ACTUAL LIMITED GROUND SURVEY WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY BE SUBJECT TO ITEMS DISCLOSED BY SUCH. NOT ALL IMPROVEMENTS OR EASEMENTS MAY BE SHOWN. NOT ALL SUBSURFACE ITEMS MAY BE SHOWN. THIS EASEMENT PLAT IS NOT A BOUNDARY SURVEY AS REGULATED BY THE COMMONWEALTH OF VIRGINIA.

CHARLIE M. FAULK ET. UX.
PARCEL ID: 190000118
INSTRUMENT NO:
0012841218
#435 MENCHVILLE ROAD

CITY OF NEWPORT NEWS
PARCEL ID: 190000101
INSTRUMENT NO: 0000390430
#100 CITY FARM ROAD

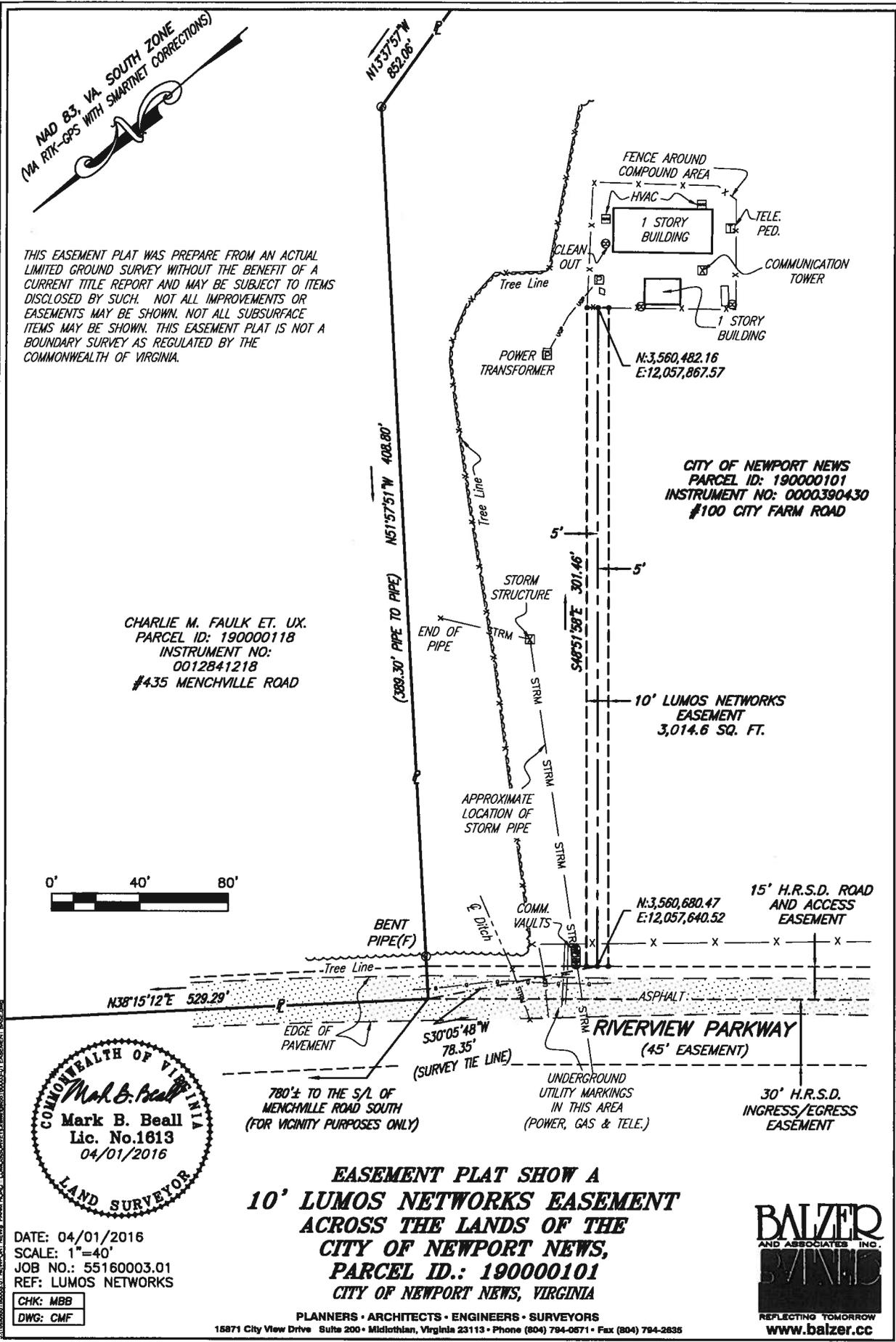


DATE: 04/01/2016
SCALE: 1"=40'
JOB NO.: 55160003.01
REF: LUMOS NETWORKS

CHK: MBB
DWG: CMF

**EASEMENT PLAT SHOW A
10' LUMOS NETWORKS EASEMENT
ACROSS THE LANDS OF THE
CITY OF NEWPORT NEWS,
PARCEL ID.: 190000101
CITY OF NEWPORT NEWS, VIRGINIA**

PLANNERS • ARCHITECTS • ENGINEERS • SURVEYORS
15871 City View Drive Suite 200 • Midlothian, Virginia 23113 • Phone (804) 794-0571 • Fax (804) 794-2835



E. Public Hearings

3. Ordinance Authorizing the City Manager to Execute an Agreement Allowing an Encroachment in a City Right-of-Way, Adjacent to Property Located at 694 J. Clyde Morris Blvd.

ACTION: A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENCROACHMENT AGREEMENT UPON THE EAST SIDE OF THE CITY'S RIGHT-OF-WAY KNOWN AS J. CLYDE MORRIS BOULEVARD, ADJACENT TO 694 J. CLYDE MORRIS BOULEVARD.

BACKGROUND:

- Joseph A. and Pamela A. Buffa own a parcel of real property known as 694 J. Clyde Morris Boulevard, Newport News, Virginia.
- A recent survey obtained by the owners shows that the existing parking lot on the property encroaches a few feet upon the City's J. Clyde Morris right-of-way and the owners wish to maintain the currently existing portion of the parking lot.
- City staff has reviewed the request and location and has determined there is no objection to the encroachment as described in the proposed Encroachment Agreement prepared by the City Attorney's Office.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Encroachment Agrmnt for 694 J Clyde Morris Blvd

Attachment

sdm14575 Ord - Encroachment Agmt -Joseph A. and Pamela A. Buffa

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

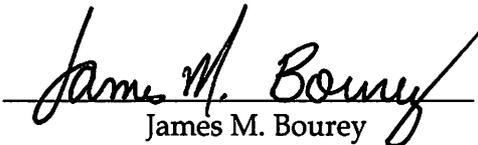
August 3, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Encroachment Agreement for 694 J. Clyde Morris Boulevard

A request has been received from Joseph A. Buffa and Pamela A. Buffa who own a parcel of real property known as 694 J. Clyde Morris Boulevard (Property) to enter into an encroachment agreement (Agreement) with the City. A recent survey obtained by the owners shows that the existing parking lot on the Property encroaches a few feet upon the City's J. Clyde Morris right-of-way and the owners wish to maintain the currently existing portion of the parking lot. The encroachment area is shown in yellow on the attached aerial.

City staff has reviewed the request and location and has determined there is no objection to the encroachment as described in the proposed Agreement. The Agreement allows for the slight encroachment, subject to nothing else being constructed or erected that would further encroach into the City's right of way. The Agreement also allows the City all rights of access, requires the owners of the Property to name the City as an additional insured for liability insurance purposes, and is revocable by the City.

I recommend Council approve the requested Agreement and the Ordinance, prepared and provided to you by the City Attorney's Office, authorizing the encroachment, as outlined, and Encroachment Agreement and authorizing me to execute any documents necessary to effectuate the transaction.


James M. Bourey

JMB:tcf

Attachment

cc: Everett Skipper, Director, Department of Engineering
Florence G. Kingston, Director, Department of Development

Encroachment Along 694 J. Clyde Morris Boulevard



ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AN ENCROACHMENT UPON THE EAST SIDE OF RIGHT OF WAY KNOWN AS J. CLYDE MORRIS BOULEVARD ADJACENT TO 694 J. CLYDE MORRIS BOULEVARD, NEWPORT NEWS, TAX ID. NO. 214000224, AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN ENCROACHMENT AGREEMENT BETWEEN JOSEPH A. BUFFA AND PAMELA A. BUFFA AND THE CITY OF NEWPORT NEWS.

WHEREAS, the Council of the City of Newport News, Virginia (Council) is authorized pursuant to Virginia Code §15.2-2009 and §15.2-2011 to permit encroachments upon certain public ways within the City of Newport News (City) and to authorize the City Manager to execute an encroachment agreement (“the Encroachment Agreement”); and

WHEREAS, Joseph A. Buffa and Pamela A. Buffa own a parcel of real property (the “Property”) known as 694 J. Clyde Morris Blvd., Newport News, Virginia, more fully described as:

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, Virginia and being known, numbered and designated as Lot A, Area 22,000 Square Feet, or 0.5050 Acres, as shown in that certain deed, recorded at Deed Book 1453, page 1810, in the Clerk’s Office of the Circuit Court, Newport News, Virginia on January 23, 1997;

and

WHEREAS, a survey dated June 13, 2016 entitled “ALTA/NSPS Land Title Survey of the Properties of Joseph A. & Pamela A. Buffa, Newport News, Virginia”, prepared by A.D. Potts & Associates, Inc, shows that the existing parking lot and sign encroaches upon the City’s J. Clyde Morris right-of-way; and

WHEREAS, Grantees wish to encroach into the J. Clyde Morris Blvd. by maintaining the currently existing portion of the parking lot and sign, AS SHOWN IN Exhibit A, a plat entitled “Plat Showing City of Newport News Encroachment Agreement Area Hereby Dedicated to Benefit Lot A, 0.0398 Acres Encroachment Agreement Area, Newport News, Virginia,” prepared by A.D. Potts and Associates, Inc., and dated August 1, 2016; and

WHEREAS, City has determined that there is no objection to the encroachment described in this Agreement;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That it desires to, and hereby does, authorize a non-permanent, revocable encroachment upon the J. Clyde Morris Boulevard right-of-way as previously described.

2. That the non-permanent, revocable encroachment is authorized subject to compliance by the parties with the terms of the Encroachment Agreement between Joseph A. Buffa and Pamela A. Buffa (“the Buffas”) and the City, attached herewith as Exhibit B. The Council reserves the right to order the removal at the Buffa's expense of encroaching improvements and revocation of said non-permanent, revocable encroachment if such becomes a danger or inconvenience to use of the public right-of-way.

3. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest the Encroachment Agreement and any additional documents necessary to grant the encroachment.

4. That a copy of this ordinance and the executed Encroachment Agreement be recorded in the real estate records of the Clerk's Office of the Circuit Court of the City of Newport News, Virginia.

5. That this ordinance be in effect on and after the date of its adoption, August 9, 2016.

THIS ENCROACHMENT AGREEMENT IS WITH THE
FREE CONSENT AND IN ACCORDANCE WITH THE
DESIRES OF THE UNDERSIGNED OWNERS,
PROPRIETORS & TRUSTEES.



APPROVED FOR
THE CITY OF NEWPORT NEWS
VIRGINIA

EVERETT P. SKIPPER, PE, BCEE DATE
DIRECTOR OF ENGINEERING

JAMES M. BOUREY DATE
CITY MANAGER

APPROVED AS TO FORM

JOSEPH DURANT DATE
DEPUTY CITY ATTORNEY

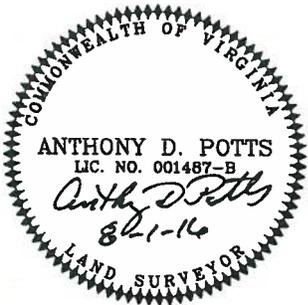
NOTES: IMPROVEMENTS NOT SHOWN

THIS PROPERTY IS LOCATED IN FIRM ZONE X,
(UNSHADED)(AREA OUTSIDE 0.2% ANNUAL CHANCE FLOOD)
AS SHOWN ON COMMUNITY PANEL NO. 510103 0129 D,
DATED DECEMBER 9, 2014 (INDEX DATED DEC. 9, 2014)

REF: P.B. 5 PG. 63, P.B. 7 PG. 119, P.B. 8 PG. 85
D.B. 1453 PG. 1810, D.B. 1275 PG. 2227

NO TITLE REPORT PROVIDED

ALL EASEMENTS MAY NOT BE SHOWN



#694 J. CLYDE MORRIS BLVD. SHEET 1 OF 3

PLAT SHOWING CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT
LOT A

**0.0398 ACRE
ENCROACHMENT
AGREEMENT AREA**
NEWPORT NEWS, VIRGINIA

ADPA A.D. POTTS & ASSOCIATES, INC.
11524 JEFFERSON AVENUE
NEWPORT NEWS, VIRGINIA 23601
PHONE: (757) 595-4610
SCALE: 1"=30' DATE: 8/1/16

THIS IS TO CERTIFY THAT THE PERIMETER SURVEY SHOWN
ON THIS PLAT IS CORRECT, TO THE BEST OF THE SURVEYOR'S
KNOWLEDGE AND BELIEF, AND HAS AN ACCURACY OF NOT LESS
THAN ONE FOOT IN TEN THOUSAND FEET.

Anthony D. Potts
ANTHONY D. POTTS, L.S.

PARCEL CONTAINING
18,299 SQ. FT.
0.4201 ACRES

LOT A
22,000 SQ. FT.
0.5050 ACRES

JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

P.R. 8 PG. 85
S 11°00'40" E 208.88'
JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

N 02°46'50" W 202.22'
N 02°46'50" W 238.87' (TOTAL)

N 24°02'27" W 200.37'
ROBINSON TRACT, PAR B, PB 10 PG 109

N 62°13'25" E 75.00' RBF

RBF
L2

N 62°28'37" E 150.00'

N 62°28'37" E 155.23'

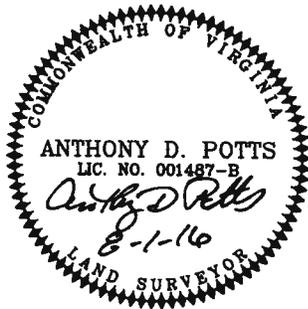
IPF
L1

CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT LOT A
1,732 SQ. FT.
0.0398 ACRES

437'± TO C/L
FORREST DRIVE-->

J. CLYDE MORRIS BOULEVARD
R/W VARIES
U.S. ROUTE 17
(←-NORTHBOUND)

LINE	BEARING	DISTANCE
L1	N 27°31'23" W	11.35'
L2	S 02°46'50" E	12.49'



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ANTHONY D. POTTS, L.S.

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NEWPORT NEWS, VIRGINIA

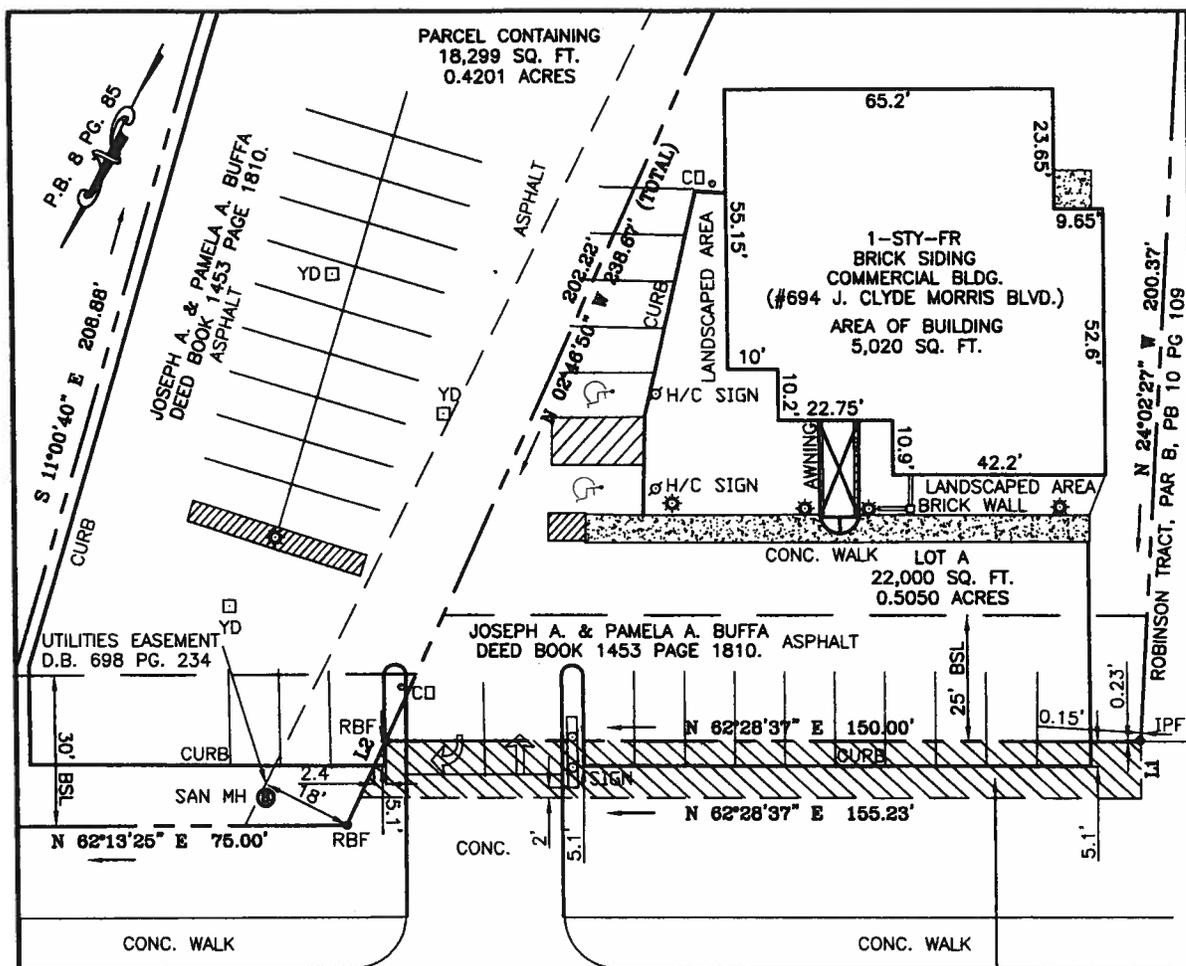
ADPA



A.D. POTTS & ASSOCIATES, INC.
11524 JEFFERSON AVENUE
NEWPORT NEWS, VIRGINIA 23601
PHONE: (757) 595-4610

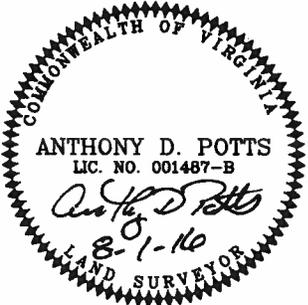
SCALE: 1"=30'

DATE: 8/1/16



LINE	BEARING	DISTANCE
L1	N 27°31'23" W	11.35'
L2	S 02°46'50" E	12.49'

TO SHOW IMPROVEMENTS



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Anthony D. Potts
ANTHONY D. POTTS, L.S.

#694 J. CLYDE MORRIS BLVD. SHEET 3 OF 3
PLAT SHOWING CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT
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NEWPORT NEWS, VIRGINIA

ADPA A.D. POTTS & ASSOCIATES, INC.
11524 JEFFERSON AVENUE
NEWPORT NEWS, VIRGINIA 23601
PHONE: (757) 595-4610



Prepared by:
Office of the City Attorney
2400 Washington Ave.
Newport News, VA 23607
(757) 926-8416 phone
(757) 926-8549 fax

Exemption Claimed Under
Section 58.1-811.A.3 For
Taxes Imposed by Section
58.1-801 on a Conveyance to
a Virginia Political Subdivision

Tax ID No. 214000224

Consideration: \$10.00

ENCROACHMENT AGREEMENT

THIS AGREEMENT (the "Agreement") made this ____ day of August, 2016, by and between the **CITY OF NEWPORT NEWS**, a Virginia Municipal Corporation ("the City"), Grantor, and **JOSEPH A. BUFFA and PAMELA A. BUFFA** ("the Buffas), Grantees.

WHEREAS, the Buffas own a parcel of real property (the "Property") known as 694 J. Clyde Morris Blvd., Newport News, Virginia, more fully described as:

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, Virginia and being known, numbered and designated as Lot A, Area 22,000 Square Feet, or 0.5050 Acres, as shown on that certain deed, which was recorded at Deed Book 1453, page 1810, in the Clerk's Office of the Circuit Court, Newport News, Virginia on January 23, 2016;

and

WHEREAS, a survey dated June 13, 2016 entitled "ALTA/NSPS Land Title Survey of the Properties of Joseph A. & Pamela A. Buffa, Newport News, Virginia", prepared by A.D. Potts & Associates, Inc, shows that the existing parking lot and sign encroaches upon the City's J. Clyde Morris right-of-way; and

WHEREAS, Grantees wish to encroach into the J. Clyde Morris Blvd. by maintaining the currently existing portion of the parking lot and sign, AS SHOWN IN Exhibit A, a plat entitled "Plat Showing City of Newport News Encroachment Agreement Area Hereby Dedicated to

Benefit Lot A, 0.0398 Acres Encroachment Agreement Area, Newport News, Virginia”, prepared by A.D. Potts and Associates, Inc., and dated August 1, 2016; and

WHEREAS, Grantees wish to encroach into the J. Clyde Morris Blvd. by maintaining the currently existing portion of the parking lot; and

WHEREAS, City has determined that there is no objection to the encroachment described in this Agreement; and

WHEREAS, the City Council of the City of Newport News by ordinance passed at its meeting of August 9, 2016, approved this encroachment upon the aforesaid Right-of-Way.

NOW, THEREFORE, the Parties agree as follows:

1. Grantor, insofar as its rights and interests are concerned, hereby grants permission to the Grantee for the encroachment, subject to the following conditions.

2. Grantee agrees that it will not construct or cause to be constructed or erected any other structure or improvement upon the Right-of-Way.

3. The City reserves all rights of access to the Right-of-Way for construction, operation and maintenance of its facilities without incurring any liability for damage to or loss of use of the encroachment described herein or for inverse condemnation thereof, arising out of any act of the City, its officials, its agents and its contractors.

4. If the encroachment is determined by any official or agent of the City to be in such a defective condition as to cause damage to the City's Right-of-Way or to otherwise adversely affect drainage onto, upon, or through; or any other lawful use by the City of the Right-of-Way; the unsafe condition shall be corrected, remedied or removed at the Grantee's expense within thirty (30) days after written notification by the City.

5. The Grantee hereby agrees to defend, indemnify and save harmless the City and its

agents, officials, and employees from any and all claims, demands, damages, including death, and liability of every kind and nature whatsoever for, on account of or arising out of the use and maintenance of the encroaching structure by the Grantee or under the consent hereby granted, and to name the City of Newport News as an additional insured under its general liability insurance policy and obtain an endorsement requiring the insurer to give the City thirty (30) days advance notice of cancellation (10 days notice for non-payment of premium).

6. This Encroachment Agreement shall in no way be construed as the granting of a perpetual easement or otherwise vesting in the Grantee any type of property right. The Agreement is revocable at will by either party upon one hundred eighty (180) days notice.

7. The City expressly reserves all rights, privileges, and immunities granted it under the laws and statutes of the United States and the State of Virginia and under the Code of Ordinances of the City of Newport News as to any claim made against it.

8. This agreement runs with the land. The terms of this Agreement are binding upon and shall inure to the benefit and obligation of the heirs, personal representatives, transferees, successors and assigns of the Parties, and shall not grant any rights to entities not party to this Agreement or the heirs, personal representatives, transferees, successors and assigns of the Parties, nor render any entity as a third party beneficiary of this Agreement.

The remainder of this page is intentionally left blank.

WITNESS the following signatures and seals:

JOSEPH A. BUFFA

PAMELA A. BUFFA

COMMONWEALTH OF VIRGINIA

City/County of _____, to wit:

I, _____, a Notary Public in and for the City/County and Commonwealth aforesaid, whose commission expires on the _____ day of _____, _____, do hereby certify that Joseph A. Buffa and Pamela A. Buffa, whose names are signed to the foregoing writing, hereto annexed, have acknowledged the same before me in my City/County and Commonwealth aforesaid.

GIVEN under my hand this _____ day of _____, 2016.

Notary Public

My Commission expires: _____

Registration No. _____

CITY OF NEWPORT NEWS,

By: _____
City Manager

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

COMMONWEALTH OF VIRGINIA
City of Newport News, to wit:

I, _____, a Notary Public in and for the City and Commonwealth aforesaid, whose commission expires on the _____ day of _____, _____, do hereby certify that the **CITY OF NEWPORT NEWS**, by James A. Bourey, as City Manager and Mabel V. Washington, as City Clerk, whose names are signed to the foregoing writing, hereto annexed, have acknowledged the same before me in my City and Commonwealth aforesaid.

GIVEN under my hand this _____ day of _____, 2016.

Notary Public

My Commission expires: _____

Registration No. _____

sdm14573

THIS ENCROACHMENT AGREEMENT IS WITH THE
FREE CONSENT AND IN ACCORDANCE WITH THE
DESIRES OF THE UNDERSIGNED OWNERS,
PROPRIETORS & TRUSTEES.



APPROVED FOR
THE CITY OF NEWPORT NEWS
VIRGINIA

EVERETT P. SKIPPER, PE, BCEE DATE
DIRECTOR OF ENGINEERING

JAMES M. BOUREY DATE
CITY MANAGER

APPROVED AS TO FORM

JOSEPH DURANT DATE
DEPUTY CITY ATTORNEY

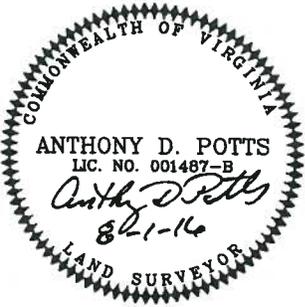
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AS SHOWN ON COMMUNITY PANEL NO. 510103 0129 D,
DATED DECEMBER 9, 2014 (INDEX DATED DEC. 9, 2014)

REF: P.B. 5 PG. 63, P.B. 7 PG. 119, P.B. 8 PG. 85
D.B. 1453 PG. 1810, D.B. 1275 PG. 2227

NO TITLE REPORT PROVIDED
ALL EASEMENTS MAY NOT BE SHOWN

#694 J. CLYDE MORRIS BLVD. SHEET 1 OF 3



THIS IS TO CERTIFY THAT THE PERIMETER SURVEY SHOWN
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KNOWLEDGE AND BELIEF, AND HAS AN ACCURACY OF NOT LESS
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Anthony D. Potts
ANTHONY D. POTTS, L.S.

PLAT SHOWING CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT
LOT A

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NEWPORT NEWS, VIRGINIA

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PHONE: (757) 595-4610
SCALE: 1"=30' DATE: 8/1/16

PARCEL CONTAINING
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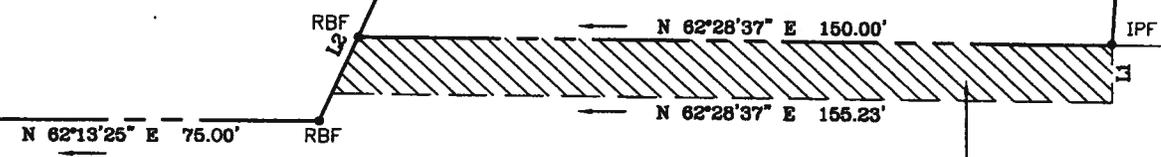
P.B. & P.C. 85
S 11°00'40" E 208.88'
JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

N 02°48'50" W 202.22'
N 02°48'50" W 238.67' (TOTAL)

LOT A
22,000 SQ. FT.
0.5050 ACRES

JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

ROBINSON TRACT, PAR B, PB 10 PG 109

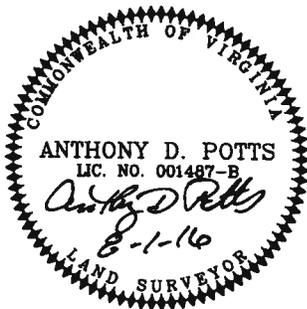


J. CLYDE MORRIS BOULEVARD
R/W VARIES
U.S. ROUTE 17
(←-NORTHBOUND)

CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT LOT A
1,732 SQ. FT.
0.0398 ACRES

437'± TO C/L
FORREST DRIVE→

LINE	BEARING	DISTANCE
L1	N 27°31'23" W	11.35'
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Anthony D. Potts
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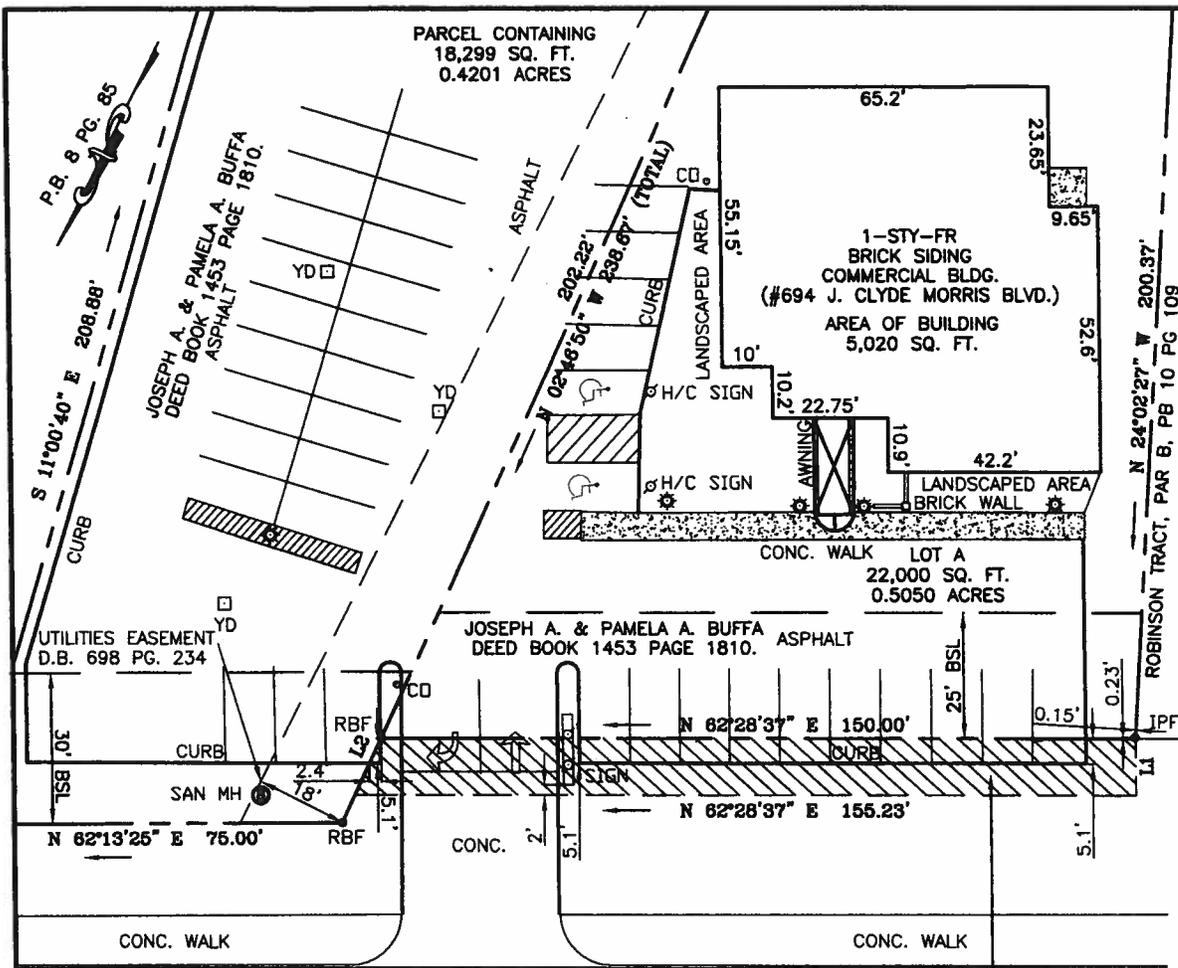
#694 J. CLYDE MORRIS BLVD. SHEET 2 OF 3

PLAT SHOWING CITY OF NEWPORT NEWS
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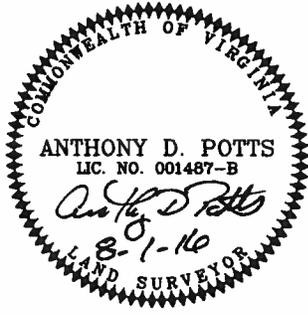
SCALE: 1"=30' DATE: 8/1/16



CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
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1,732 SQ. FT.
0.0398 ACRES

LINE	BEARING	DISTANCE
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TO SHOW IMPROVEMENTS



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PHONE: (757) 595-4610
SCALE: 1"=30' DATE: 8/1/16

F. Consent Agenda

1. Minutes of the Special Meeting of July 12, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of Special Meeting of July 12, 2016

**MINUTES OF SPECIAL MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE
July 12, 2016
9:00 A.M.**

PRESENT: Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III;
McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P.
Woodbury-----7

ABSENT: None-----0

OTHERS PRESENT: James M. Bourey; Collins L. Owens, Jr.; Mabel Washington Jenkins; and
Jennifer Walker

After ascertaining that proper meeting notice had been provided to each member of City Council, Mayor Price called the meeting to order and stated the meeting was being held for the following purpose:

- (1) To call a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia, 1950, as amended, subsection: (1) a discussion, consideration or interview of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of any public body, the subject of which is a discussion or consideration of prospective candidates for appointment to the position of Vice Mayor.

Councilwoman Cherry moved for a closed meeting under section and reasons cited above; seconded by Councilwoman Vick.

Vote on Roll Call:
Ayes: Bateman, Cherry, Harris, Price, Scott Vick, Woodbury
Nays: None

(Closed Session 9:10 a.m. – 9:43 a.m.)

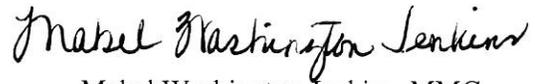
After reconvening in open session, Councilwoman Cherry moved to certify that to the best of each member’s knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the Council. Motion seconded by Councilwoman Vick.

Vote on Roll Call:
Ayes: Bateman, Cherry, Harris, Price, Scott Vick, Woodbury
Nays: None

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 9:43 A.M.

DRAFT

Page 2
Minutes of Special Meeting
July 12, 2016



Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

CERTIFICATE OF CLOSED MEETING

MEETING DATE: July 12, 2016
MOTION: Councilwoman Sandra N. Cherry, D. Min.
SECOND: Councilwoman Tina L. Vick

WHEREAS, the City Council of the City of Newport News has convened a closed meeting on this date pursuant to an affirmative recorded vote as required under the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia, 1950, as amended, requires a certification by this City Council that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newport News does hereby certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the City Council.

VOTE

AYES: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury
NAYS: None
ABSTENTION: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

ATTEST:



Mabel Washington Jenkins, MMC
City Clerk

F. Consent Agenda

2. Minutes of the Organizational Meeting of July 12, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of Organizational Meeting of July 12, 2016

**MINUTES OF ORGANIZATIONAL MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
July 12, 2016
10:00 A.M.**

PRESENT: Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III;
McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P.
Woodbury -----7

ABSENT: None-----0

Call to Order

Mayor Price called the meeting to order. He welcomed and thanked all for their attendance at the July 12, 2016 Organizational Meeting of the Newport News City Council. Mayor Price stated the purpose of the meeting was to have the successful candidates duly sworn in to serve for a term of four years, to elect a Vice Mayor, and to adopt three (3) Ordinances regarding the City Council’s Rules of Procedure.

Mayor Price recognized elected officials and other dignitaries present.

Invocation

The invocation was rendered by Reverend George Chiros, Saints Constantine and Helen Greek Orthodox Church, Newport News, Virginia.

The Pledge of Allegiance to the Flag of the United States of America

The Pledge of Allegiance to the Flag of the United States of America was led by members of the Newport News Mayor’s Youth Commission. Participating members included Mr. Sae Kim; Ms. Nitasha Blount; and Ms. Nina Robertson.

Presentation of Certificates of Election by the Newport News Electoral Board and Oaths of Office

Mayor Price introduced members of the Newport News Electoral Board: Mr. Sean Devlin, Chair; Mrs. Eliza Melvin, Vice Chair; and Mr. Wendell A. Barbour, Secretary; to present the Certificates of Election to the newly elected and re-elected City Council members.

(a) Mr. Sean Devlin, Chair, Newport News Electoral Board, presented the Certificate of Election to the Honorable Marcellus L. Harris III.

Presentation of Certificates of Election by the Newport News Electoral Board and Oaths of Office Continued

The Honorable David F. Pugh, Judge, Circuit Court, Newport News, administered the oath of office to the Honorable Marcellus L. Harris III, elected as a member of the Newport News City Council, Seat "A" North District 1, for a four-year term of office, beginning, July 1, 2016 and ending June 30, 2020.

(b) Ms. Eliza Melvin, Vice Chair, Newport News Electoral Board, presented the Certificate of Election to the Honorable Tina L. Vick.

Pastor Rashad Cartwright, Experience Life Church, Hampton, Virginia, administered the oath of office to the Honorable Tina L. Vick, re-elected as a member of the Newport News City Council, Seat "A" South District 3, for a four-year term of office, beginning, July 1, 2016 and ending June 30, 2020.

(c) Mr. Wendell A. Barbour, Secretary, Newport News Electoral Board, presented the Certificate of Election to the Honorable Dr. Patricia P. Woodbury.

The Honorable C. Peter Tench, Chief Judge, Circuit Court, Newport News, Virginia, administered the oath of office to the Honorable Patricia P. Woodbury, re-elected as a member of the Newport News City Council, Seat "A" Central District 2, for a four-year term of office, beginning, July 1, 2016 and ending June 30, 2020.

The Oaths of Office were administered individually to the newly elected member, and re-elected members, of the Newport News City Council (copies are attached and made a part of these minutes). The written oaths were signed by all parties for filing with the Clerk of the Circuit Court for the City of Newport News (copies are attached and made a part of these minutes).

Election of the Vice Mayor

Mayor Price asked for nominations for the position of Vice Mayor for the City of Newport News.

Councilwoman Woodbury nominated Councilwoman Tina Vick for appointment to the position of Vice Mayor; seconded by Councilwoman Cherry.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Vick, Woodbury

Nays: Scott

Motions Regarding Rules of Procedure

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., CITY COUNCIL, DIVISION 1., GENERALLY, SECTION 2-21, TIME AND PLACE OF REGULAR MEETINGS. This ordinance amended the City Code, Chapter 2, Administration, Article II., City Council, Division 1., Generally, Section 2-21, establishing that the City Council would meet on the second and fourth Tuesday of each month. The Charter only required that City Council meet once each month; but the Code required that the City Council meet twice each month. City Attorney Owens advised, historically, City Council, by separate motion, voted to cancel the meetings on the second Tuesday of July, August, and December, but this action was included in the proposed ordinance to prevent City Council from voting on a separate resolution each year.

Councilwoman Scott moved to adopt the above ordinance, cancelling the Regular Meetings of City Council for July, August, and December of each year; seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., CITY COUNCIL, BY ADDING THERETO A NEW SECTION, NAMELY SECTION 2-21.1, WORK SESSION MEETINGS. This ordinance amended the City Code, Chapter 2, Administration, Article II., City Council, by establishing a new section, Section 2-21.1, dealing with Work Session Meetings. The Code was silent on Work Sessions, but it had been the normal practice to hold Work Sessions on the days of Regular Meetings of City Council. City Attorney Owens advised that could be done without having to call them as a Special Meeting. This provision would provide that Work Sessions, if needed, could be held on the day that a Regular Meeting of City Council was held. He further advised that the City Clerk had scheduled appointments to Boards, Commissions and Committees quarterly, which had been included in the proposed ordinance amendment as the normal time.

Councilwoman Woodbury moved to adopt the above ordinance; seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE II., CITY COUNCIL, DIVISION 1., GENERALLY, SECTION 2-60, APPLICATION

Motions Regarding Rules of Procedure Continued

OF ROBERT'S RULES AND GENERAL PRINCIPLES OF PARLIAMENTARY PROCEDURE. This ordinance amended the City Code, Chapter 2, Administration, Article II., City Council, Division 1., Generally, Section 2-60, which provided where the rules in Chapter 2 were silent, that Robert's Rules and General Principles of Parliamentary Procedure, 10th Edition, would be the parliamentary authority and govern upon all questions where there was no rule. This ordinance modified this Chapter to use the 11th Edition of Robert's Rules and General Principles of Parliamentary Procedure, as opposed to the 10th Edition.

Councilwoman Woodbury moved to adopt the above ordinance; seconded by Councilwoman Scott.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

Remarks by Council Members

(a) The Honorable Herbert H. Bateman, Jr. thanked the citizens for their attendance. He congratulated his colleagues that were sworn in earlier. He indicated that he was excited to have a fresh start, and looked forward to working for the betterment of Newport News – one of the great cities in the greatest country in the world. He stated that he was honored to be a part of the Newport News City Council and looked forward to moving forward, taking action on matters of importance, working together, cooperating and compromising. He welcomed and congratulated newly elected Councilman Marcellus “B2” Harris III, as well as Councilwoman Dr. Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council. He indicated that he was excited to move forward with his colleagues to make a fresh start.

(b) The Honorable Sandra N. Cherry, D. Min. thanked the citizens for their attendance. She thought it was great to have the room filled to capacity, and stated it would be wonderful to have them present to speak to an issue at the Regular Meeting of City Council at 7:00 p.m. Councilwoman Cherry stated that Council members had the heart to do the work for the City of Newport News, and to make Newport News a great City. She reminded that one of the City's mottoes was, “Newport News, A great City where great things were happening.” She stated that great things were happening in the “One City” of Newport News. She asked that citizens keep members of City Council in their prayers, as they prayed for wisdom to do the right thing for the City and the citizens of Newport News. She stated that all members of the Newport News City Council loved their City. She welcomed and congratulated newly elected Councilman Marcellus “B2” Harris III, as well as Councilwoman Dr. Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council, and further congratulated Councilwoman Vick on being elected to the position of Vice Mayor.

Remarks by Council Members Continued

(c) Councilman Harris gave honor to his Lord and Savior. He stated that he was excited about being elected to the Newport News City Council, even though his father, Reverend Marcellus Harris II who wanted to be present, was in the hospital. He asked that citizens pray for his recovery. Councilman Harris thanked his family for being in attendance – his sister and brother; his wife Rasheena, who was phenomenally feisty, and who served as his campaign manager, for her support; his new colleagues, expressing excitement to work with them to make Newport News the best City; his extended family - his church family from First Baptist Church Morrison; his school counseling family for their support; his Director, Ms. Sereethia Brown; his coaching family at Denbigh High School; and the group of girls – the whirlwind of fire, who was with him throughout his campaign. He wanted to extend his gratitude to all that helped him get to his present position. He further thanked members of the Newport News School Board for their attendance and support. His vision was to enlighten the citizens, empower the community to enhance the City, and to ensure that everyone was on the same page, even though they would respectfully disagree at times, but wanted to make sure that everyone was working with the goal in mind, that it was all about the citizens. Councilman Harris acknowledged his good friend, Mr. Andrew Shannon, who had been loyal to him and his father, and had helped him a great deal. Although he did not always agree with Mr. Shannon, Councilman Harris advised that he always had a passion for the citizens, which was his wish for all – to have a passion as fervent as Mr. Shannon's.

Councilman Harris congratulated Councilwoman Dr. Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council, and further congratulated Councilwoman Vick on being elected to the position of Vice Mayor.

Councilman Harris stated that the City of Newport News had great employees that wanted Newport News to be the best City that it could be. He had met the most hospitable and receptive people within the Newport News City Hall to help lead and guide him and to prepare him for his position on City Council. He looked forward to working on the City's strategic initiatives/goals, with the citizens in mind at all times.

(d) Mayor Price thanked the citizens for their attendance. He welcomed and congratulated newly elected Councilman Marcellus "B2" Harris III, as well as Councilwoman Dr. Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council, and further congratulated Councilwoman Vick on being elected to the position of Vice Mayor.

Mayor Price stated that it had been his position to be the head cheerleader for the City, which he did, trying to accentuate the positive about what occurred in the City of Newport News. He reminded of his saying, "May what you say and do uplift the City of Newport News," which was not said lightly, but with meaning. He stated that the City of Newport News had a lot going for itself, and it should be recognized. All cities have problems, and things that could be improved upon. He stated that Newport News had great leadership in City Manager James Bourey, and a great staff that worked more than anyone he knew, for the purpose of growing the City and getting better. Mayor Price stated that it was his responsibility

Remarks by Council Members Continued

as Mayor to be the conduit for the City, to lead the City Council such that they were not segmented, not biased about where they lived in their respective districts, that their decisions were made for the best interest of the entire City.

Mayor Price vowed to continue to do so, and hoped the time and effort was appreciated, as it was not always easy. He reminded that members of City Council were doing the best they could. They appreciated the input and the criticisms of the citizens, as well as suggestions and solutions. Mayor Price advised that he was pleased in the direction in which the City was headed, and prayed that Newport News continued to show other cities how to do things right.

(e) Councilwoman Scott thanked the citizens for their attendance. She was excited to see so many present, and felt the same excitement she experienced during her initial election to City Council. She welcomed and congratulated newly elected Councilman Marcellus "B2" Harris III to be his counterpart in the North District. She congratulated Councilwoman Dr. Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council. She stated there was a great deal happening throughout the City. She advised there were a number of initiatives that Councilman Harris had mentioned, and she looked forward to working with him. They agreed that they would do things together, in unity, for the North District. She reminded that she represented everyone throughout the entire City, and had supported initiatives for all of her colleagues in their district, and she vowed to continue. Councilwoman Scott reminded, when she ran in 2010, her campaign slogan was "One City, One Vision," and observed that "One City" had resonated across the City of Newport News over the past six years and had become even greater. She stated the more the Council talked about being "One City," the more others bought into the fact that Newport News was "One City." As City Council gelled, the Districts would attempt to do their part, as was seen in Community Maintenance, and Town Hall Meetings. She reminded that she was the first to hold Town Hall Meetings, but now everyone was meeting across the entire City. She stated, "A leader without any followers was a person going for a walk," and she did not want to be the individual going for a walk, and always attempted to remain engaged in her City. She promised to do the best that she could to work to support the entire City, and to ensure that City Council continued to promote and do what was necessary to have a good education system. The economic engine of the City was so vitally important so not to put the burden on the residents in the form of real estate taxes. Councilwoman Scott indicated the City had to do a better job of addressing crime issues, job development, and job training for those without skillsets. She further indicated that there was so much to be done. She and her colleagues were committed to doing what was in the best interest of the City, and making sure that Newport News would become a real "One City." She thanked everyone for their attendance and was appreciative of the opportunity to serve the citizens in the North District, and was eternally grateful for the opportunity to represent all citizens throughout the City of Newport News.

(f) Vice Mayor Vick expressed excitement to begin her third term on the Newport News City Council. She stated that she was deeply grateful, and humbled by God to be given the opportunity to serve the citizens of Newport News. She stated the past eight years had

Remarks by Council Members Continued

gone by quickly, reminding that she had pushed for the summer jobs program for youth, which would help the City see less gang violence and more productivity; job development in the South District, and throughout the City for those who did not have a chance, or did not have transportation to obtain those services; and she was ecstatic about Jim's Local Market, a brand new 23,000 square foot grocery store in the Southeast Community. She was pleased of the work that had been accomplished with her colleagues on the Newport News City Council, and was glad to be able to continue. She was humbled to read that she had received 65% of the vote, which was the citizens believing in her, going to the polls to vote and saying they wanted Tina Vick to continue to serve.

Vice Mayor Vick thanked her family for their presence, which made up "Team Vick," comprised of her daughter, Teunsha Vick;, her grandsons, Shamar, Tyree, and Tyson; her niece, Ramona; and great nieces, Ravin, Rakayla, and Rihwana; her nephew, and Campaign Manager, Mr. Greg Brooks. Her slogan was, "no matter how much people would say you would win, work like you're losing." She thanked her Pastor, Pastor Rashad Cartwright, of Experience Life Church, for his spiritual guidance. She acknowledged her fellow parishioners from Experience Life Church.

Vice Mayor Vick congratulated Councilwoman Dr. Patricia Woodbury on her re-election bid, and welcomed and congratulated newly elected Councilman Marcellus "B2" Harris III, on his election to the Newport News City Council.

Vice Mayor Vick acknowledged the presence of one of her largest supporters, her seventh grade teacher, Ms. Gail Gwyn, who kept her going.

Vice Mayor Vick thanked her colleagues for their vote of confidence on electing her to the position of Vice Mayor for the next two years. She vowed to continue to work hard in the position and for the citizens in the great City of Newport News.

(g) Councilwoman Dr. Woodbury thanked the citizens for their attendance. She quoted one of her favorite authors, "Here is a test to find out whether your mission in life is finished: if you're alive, it isn't." She advised that she was indeed alive, and considered it an honor to represent the citizens on the Newport News City Council – a very important and special mission. She shared another favorite saying, "A Grateful Heart is a Magnet for Miracles." She advised that her campaign was a miracle of so many people who donated their time, talent, and their treasury to make it happen. She indicated it would take too long to name everyone, but decided to mention a few – God, the ultimate Miracle Maker; her husband Gerard, who had always been her Campaign Treasurer; her daughter and her husband; her granddaughter and grandson; her Campaign Manager, Ms. Lou Call; her Field Director, Mr. Alex Piacente; Mr. Marcus Calabrese, who helped with Public Relations; Delegate David Yancey; friend Mr. Tip Sheets, who donated his band, River Rocks at a fundraiser; Former Vice Mayor Madeline McMillan and Former Campaign Manager, Ms. Juanita Bailey; Mr. A. C. Pulliam, Jr., who was in charge of signs; and Mr. Ray Suttle, Jr., who donated the Campaign Headquarters. A special thanks to the Honorable Peter Tench, the Judge who was generous enough to administer her oath.

Remarks by Council Members Continued

Councilwoman Woodbury indicated that she was often accused of saying “No; but stated that she said “Yes” far more often. She asked a number of questions to inform herself and her constituents. She made the following promises each time she was elected, and advised they still applied: (1) She would say no to unnecessary and wasteful spending; (2) She would say yes to a Citizen Advisory Committee on the budget, similar to the City of Hampton; (3) She would say no to the concept “build it and they will come;” and would let market research and other data guide those decisions; (4) She would say yes to conservation of all natural resources; (5) She would say yes to Newport News becoming the Education City; (6) She would say no to gangs and violence, and yes to public safety; (7) She would say yes to lower taxes so the citizens could keep more of their hard-earned money and not have to leave their homes; (8) She would say yes to transparency in government; (9) She would say yes to working collaboratively with her colleagues on City Council; and (10) She would say yes to the citizens who she respected and whose ideas and input she would count on to guide her to make the best possible decisions for Newport News.

Councilwoman Woodbury shared a quote from Reverend Dr. Martin Luther King, Jr., “It is always the right time to do the right thing.” She indicated that she had always tried to do the right thing, and would continue to do so. When asked what she hoped to accomplish in the next four years, Councilwoman Woodbury replied, (1) Having our citizens more involved by moving some of the City Council Meetings to other parts of the City; and (2) More consideration of tax exemption for elderly who were truly poor and needed relief. She stated that no goal could be accomplished without the support of her fellow Council members; and she asked for their support and vowed to continue to work collaboratively with them to accomplish not just her goals, but that of her colleagues and the strategic goals that were adopted by all members of City Council (a copy of Councilwoman Woodbury’s remarks are attached and made a part of these minutes).

Adjourn

Mayor Price, on behalf of City Council, thanked everyone for their attendance. He extended an invitation to everyone to attend a reception being held in the City Hall Lobby immediately following the Ceremony.

Mayor Price adjourned the meeting by addressing the citizens. He stated, “May what you say and do uplift the City of Newport News.”

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 10:44 A.M.

DRAFT

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Minutes of Organizational Meeting
July 12, 2016

Mabel Washington Jenkins

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

F. Consent Agenda

3. Minutes of the Work Session of July 12, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of Work Session of July 12, 2016

MINUTES OF WORK SESSION
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE

July 12, 2016

3:00 p.m.

PRESENT: Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III; McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P. Woodbury -----7

ABSENT: None-----0

OTHERS PRESENT: James M. Bourey; Collins L. Owens; Mabel Washington Jenkins; Cynthia Rohlf; Alan Archer; Robert Pealo; Wanda Pierre; Lisa Cipriano; Sherry Crocker; Florence Kingston; Sheila McAllister; Claudia Cotton; Natale Ward Christian; Page Hayhurst; Cleder Jones; Kim Lee; Jerri Wilson; Jennifer Walker; RoShaundra Ellington; and Dave Ress

- I. Hampton-Newport News Community Services Board FY 2017 – FY 2018 Performance Contract and FY 2017 Operating Budget Presentation

Mr. James M. Bourey, City Manager, introduced Ms. Natale Ward Christian, Executive Director, Hampton-Newport News Community Services Board (HNNCSB), to provide the presentation.

Ms. Christian advised that the parties of the FY 2017 – FY 2018 Performance Contract included the HNNCSB and the Department of Behavioral Health and Developmental Services (DBHDS). The Performance Contract was the primary accountability and funding mechanism between the HNNCSB and the DBHDS. The Performance Contract described the HNNCSB’s commitment to the people that they served in the Cities of Newport News and Hampton. The Performance Contract required formal approval of the HNNCSB Board of Directors and the City Councils of the Cities of Newport News and Hampton.

Ms. Christian noted the FY 2017 - 2018 Performance Contract Budget Principles:

- Programs should be self-supporting to the extent possible and maximizing earned revenue.
- Programs should operate in an economic and efficient manner and apply all human and capital resources necessary to achieve their mission and eliminate any waste.
- State and local funds and any excess program revenue should be used to support the strategic initiative of the HNNCSB and any individuals who did not have a pay source. Their model did not solely rely on grant funds, but included fee revenue, which was used to assist individuals who did not have a payer source.
- Programs/services were monitored and right sized on a regular basis to assure that there was sufficient revenue to cover the cost of services.

Ms. Christian noted the FY 2017 - 2018 Performance Contract Budget Highlights:

- Staff Compensation
 - Increase salary and hourly wage rates:
 - 4% effective 6/26/2016, for all full-time employees hired before 6/1/2012, to include the required match for the 1% for the employee paid Virginia Retirement System (VRS) increase
 - 3% effective 6/26/2016, for all other salaried and hourly employees
 - Limit budgeted payroll lag to 2%
- Initiated a Comprehensive Compensation Study for future planning

Ms. Christian explained that a Compensation Study was done in 2016 to determine where the HNNCSB fell in the area of employee compensation and fringe benefits as compared to other organizations. The results of the study should be available by mid-year 2016 to see whether changes were needed in 2017.

- Fringe Benefits
 - Re-evaluate health insurance to balance required savings with staff impact
- Strategic Plan Initiatives
 - Hire a Director of Communication and Development to assist in enhancing the HNNCSB's brand in the community to emphasize their role and what services they provided (Behavioral Health Services).
 - Increased Workforce Development in how to train and retain staff
 - Continue Outcome Measurement and Alignment with Best Practices
- Allow for a contribution of \$500,000 to the operating reserve
- Fund Capital Requirements for vehicles and equipment
- Level State, Federal and Local Funding
- Attainable/conservative fee revenue

Councilwoman Cherry inquired whether the HNNCSB looked at their branding to help the public understand that their services were specifically centered to help the mentally ill. Ms. Christian replied yes. She indicated it was an ongoing agenda item for their board meetings. The board was looking at their name, webpage design, and advertising, but had to consider all elements and not be premature in changing their name.

Councilwoman Cherry understood, and indicated that the HNNCSB had been around for a long time. She stated that the HNNCSB could educate, but if they were looking for the "buzz words" that were touted in the industry, their services were more about mental health rather than community. She inquired whether mental health services could be better emphasized as the HNNCSB moved forward. She felt it might be beneficial for the HNNCSB to change their name to reflect mental health services,

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which would help gain additional clients. Ms. Christian agreed, and stated that was a key consideration. She stated the HNNCSB's Strategic Plan centered upon their name, education, and role in the community.

Ms. Christian reported that HNNCSB FY 2017 – 2018 revenue totaled \$70,266,294, which amounted to a \$1,960,217 increase over FY 2016. She noted the major revenue changes for FY 2017 - 2018:

Ms. Christian noted the percentage of revenue by source of the FY 2017 - 2018 HNNCSB Budget:

Ms. Christian advised that on behalf of the region (Health Planning Region 5, which included nine CSBs) the HNNCSB was the fiscal agent for regional projects. The HNNCSB managed approximately \$7 million on behalf of the region.

Councilman Bateman inquired whether the HNNCSB received payment for managing regional projects. Ms. Christian replied that the HNNCSB did receive an administrative fee for the management of regional projects.

Vice Mayor Vick inquired about the services that the HNNCSB provided for a fee. Ms. Christian replied that the services that the HNNCSB provided for a fee included Outpatient Services, Day Support Services, etc.

Councilwoman Scott inquired whether such services were offered regionally. Ms. Christian replied that some regional services were operated by the HNNCSB and there was money that they managed on behalf of the region. For example, they operated regional crisis services for people with intellectual disabilities, such as the REACH (Regional, Education, Assessment, Crisis Services, Habilitation) program, the SAMHSA (Substance Abuse and Mental Health Services Administration) program, and the Transcend Residential House program, which provided 24-hour supervised housing for

people transitioning from the Virginia State Hospital.

Councilwoman Scott inquired whether residents of the Transcend Residential House were able to reside there permanently. Ms. Christian replied, yes, they could remain in the home permanently.

Ms. Christian noted the FY 2017- 2018 Program Activities of the HNNCSB (see information on page 10 of the presentation attached to these minutes).

Ms. Christian noted the HNNCSB FY2017- 2018 Budget Expense Comparisons by Category (see information on page 11 of presentation attached to these minutes):

• Personnel	\$48,109,114
• Staff Development	\$ 322,335
• Facilities	\$ 5,395,425
• Equipment	\$ 3,142,126
• Travel	\$ 688,487
• Contractual	\$ 6,047,296
• Client Support	\$ 1,802,800
• Family Support	\$ 25,000
• Contract Programs	\$ 4,077,736
• Miscellaneous	\$ 655,975

Ms. Christian noted the Value Added Services of the HNNCSB:

- Crisis Intervention Training for Law Enforcement Officers
- Therapeutic Day Treatment in Newport News City Schools
- Newport News Healthy Families Case Management Partnership
- Expansion of Housing Initiatives for the Homeless and those with ID/DD Waivers

Ms. Christian noted the FY 2017 - 2018 HNNCSB Budget Summary:

- Maintained high quality community-based programs that were responsive to the needs of the citizens within available funds
- Provided for the continued and improved financial health of the HNNCSB and recognized changes to service delivery models
- Continued stewardship of public resources by providing effective and efficient services in a challenging financial environment

Ms. Christian asked City Council to approve the HNNCSB Performance Contract and Budget for FY 2017 - 2018. She shared that as the new Executive Director of the HNNCSB, she had a

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tough and challenging job, but loved the work. She was doing well because of the support that she received from the communities that the HNNCSB served (the Cities of Newport News and Hampton), as well as her staff and leadership team. She thanked the members of City Council for their support, and City Manager Bourey for providing her with the assistance of Assistant City Manager Alan Archer. She commended and thanked Mr. Archer for assisting the HNNCSB.

Vice Mayor Vick thanked Ms. Christian for stepping up to the plate. She believed that the Board could not have chosen a better person for the position of Executive Director. She commended Ms. Christian for being a good communicator and exhibiting heartfelt passion for her job. She commended her leadership team and indicated she heard nothing but good things regarding the mission of the HNNCSB.

Councilwoman Cherry inquired about the location of the Transcend Residential House. Ms. Christian replied the Transcend Residential House was located off of J. Clyde Morris Boulevard, but she could not disclose the exact address.

Ms. Christian stated she hoped to return to City Council in late 2016 to provide an update on the services that the HNNCSB provided. She invited members of City Council to contact her should they desire to tour any of their facilities.

II. Windy Knolls Briefing

City Manager Bourey introduced Assistant City Manager Cynthia Rohlf and City Attorney Collie Owens to provide the Windy Knolls Briefing.

Assistant City Manager Rohlf stated the Windy Knolls development was located near the intersection of Bland Boulevard and Campbell Road. She advised, in April of 2005, City Council authorized the City Manager to execute a Project Development Agreement with BECO Construction for the Windy Knolls Condominium Project. Due to the softening housing market in 2008, BECO requested an amendment to the Project Development Agreement to allow for the development of luxury apartments. In reply to BECO's request, City staff proposed a combination of luxury condominiums and high-end apartments for Windy Knolls. In February 2008, City Council amended the Project Development Agreement to allow for the construction of 136 condominiums and 168 luxury apartments, for a total of 304 units. Approximately 94 condominiums had been constructed and 42 of the 94 were being rented as apartments. In 2011, a proposal was submitted to amend the Project Development Agreement to build additional apartments. Much discussion was held as the condominium owners voiced concerns about a reduction in the value of their properties. Legal issues were raised between the homeowners and the developers. One particular issue that surfaced was that there would be a limit on the number of condos and apartments that could be rented, which was a maximum of 40 units. She introduced City Attorney Owens to continue with the briefing.

City Attorney Owens advised that BECO Construction approached the City in 2005 to gain access through a 31-acre parcel, adjacent to Sharon Drive, to allow the development of a high end for sale condominium project. In return, the developer agreed to pay for and build an access road that would serve the City and its planned future light rail station. The original Project Development Agreement in 2005 stipulated the construction of 250 for sale condominiums. In 2008, the market fell and the developer stated they could not honor the construction of high end condos for the entire project. In February 2008, the agreement was renegotiated, and approved by City Council for the construction of 136 condos and 168 luxury apartments. The amended Project Development Agreement also stipulated that no more than 40 condos could be leased. BECO returned to the City in 2011 and requested another amendment to the agreement. The developer had built 168 apartments, but had not built the 136 condo units. City Attorney Owens believed that the Project Development Agreement stipulated that the developer would not receive a Certificate of Occupancy (CO) without completing the condos. Many condo owners voiced opposition to an additional amendment to the Project Development Agreement to construct additional apartments. Litigation ensued between the condo owners and the developer in 2012. The developer and the property owners had reached an agreement, part of which would involve the City, to reduce the number of independently owned condos to 52 and increase the number of luxury apartments. The current total number of units amounted to 304, and the developer proposed increasing the number to 310. City Attorney Owens stated City staff did not want the number of apartments to increase above 304 units, but continued to work on the matter. There was an issue regarding the number of condos that could be rented. Several military personnel who owned condos, and had to deploy, were unable to lease their properties due to the minimum rule requirement that no more than 40 units could be leased, which was the reason the minimum increased to 42, rather than 40. According to the developer's attorney, the homeowner's were in agreement with the proposed second amendment to the Project Development Agreement. The amended agreement would be available for adoption by City Council at the Regular Meeting of August 9, 2016.

Mayor Price understood the tenants and homeowners were in agreement; however, staff wanted to limit the number of apartments to 304 units instead of the 310 that were proposed by the developer. City Attorney Owens replied yes, staff was in support of 304 units; however, he would get with the Planning staff and the developer about the number of units.

Councilwoman Cherry stated that she wanted to hear from the condo owners who invested in the property. She understood the specifics of the matter, but wanted to ensure that the condo owners supported the amendment. She did not want to hear from the developer alone. Assistant City Manager Rohlf advised, as part of the Settlement Agreement, the owners agreed and were in accord with moving forward. The developer and owners had reached an agreement over much discussion.

Mayor Price stated there was a lawsuit pending and understood that both sides were in agreement with the amendment.

City Attorney Owens pointed out that all of the condo owners were not a part of the law suit, and he did not know whether they agreed to the amendment.

Mayor Price stated, according to the attorney for the Windy Knolls Homeowner's Association, the majority of the owners supported the amendment.

Assistant City Manager Rohlf stated there were a number of issues and the developer tried to appease all involved. Staff could certainly follow-up with the owners to get their perspective.

Councilman Bateman inquired about the rental occupancy rate. Assistant City Manager Rohlf replied that the occupancy rate for the rentals was at 100%.

Councilman Bateman recalled that City Council was concerned that the apartments were not constructed with a certain standard as promised by the developer. Assistant City Manager Rohlf advised that the developer had made structural upgrades to the apartments. The upgrades were not as originally proposed; but, the developer made a good faith effort to satisfy the concerns of the owners.

Councilwoman Scott stated that she met with the homeowner's and developer's attorneys, along with another attorney, and several property owners who voiced concern that they did not want to live in a community that did not look as if it was finished. Many voiced concern that they could not rent their properties should the need arise. She felt that the amended agreement rectified the concerns of all parties. She voiced concern that a meeting should be held with all of the property owners, and they promised to plan a community meeting. She advised Councilwoman Cherry that she would contact her should a meeting be scheduled. She wanted to know their perspective and that they were represented. Assistant City Manager Rohlf stated that staff would follow-up with the owners, and let City Council know of any planned community meetings between the attorneys, developers and the owners.

Vice Mayor Vick voiced concern about a rule that one could not qualify for financing to buy a condominium in a community where 52% of units were rented. She inquired whether such could affect the Windy Knolls owners. Assistant City Manager Rohlf believed that was an FHA loan requirement.

Councilman Bateman agreed that a certain percentage of the homes purchased had to be through conventional financing in order to get the FHA designation. The developers of Windy Knolls would want to aspire to make the community attractive to qualify for FHA loan designation.

Vice Mayor Vick understood that a purchaser had to pay cash or qualify for a conventional loan for a condo in a community where a certain percentage of rentals were leased. She voiced concern that the Windy Knolls property owners would not be able to sell their property if the area was infused with rental housing.

III. Virginia Living Museum (VLM) Lease Renewal

City Manager introduced Ms. Florence Kingston, Director, Department of Development, to provide an overview of the Virginia Living Museum Lease Renewal with the City.

Ms. Kingston reported that the City leased a 20.96 acre parcel to the Virginia Living Museum (VLM), out of an approximately 71 acre parcel, located at 524 J. Clyde Morris Boulevard, since September 22, 1966, for \$1 per year. The current lease was due to expire on August 31, 2016. The original 40-year lease had been followed by four subsequent five-year lease renewals (1996, 2001, 2006, 2011). The current lease did not contain the renewal provision, which was the reason staff was bringing it back to City Council. The new lease would be for five years, with the same terms and conditions. The City owned all the buildings on the property. The VLM would maintain the building, carry fire insurance and pay all public utility costs. The Museum would carry adequate liability insurance and hold the City harmless for losses of physical damage, bodily injury or death. The lease would begin on September 1, 2016 and terminate on August 31, 2021. The lease would continue, in five year increments, for \$1 per year.

Councilwoman Cherry inquired about the reason that the City provided the VLM with \$400,000 for their HVAC system if their lease was only \$1 per year. City Manager Bourey replied that a Performance Study of the VLM was done, which compared the VLM to other museums around the country. He recommended not offering the VLM the same level of funding as was provided in the past. The reality was that the VLM could not sustain itself on admission revenue alone; and needed some form of subsidy.

Councilwoman Cherry inquired about other matters that were affecting the VLM's revenue. City Attorney Owens explained that the VLM was affected by the downturn in the real estate market in 2009. Just before the downturn, the VLM received a loan from the bank to build a new museum. He did not understand how they received the loan since the City did not sign off on the Deed of Trust. The bank called the note and the VLM had to come up with the \$5 to \$6 million that they owned on the loan.

Councilman Bateman stated the VLM dedicated the decision to build the new museum the promise from the State and Federal Governments that they would always assist the VLM with funding, and for years and years they did. The VLM continued to make extraordinary efforts in fundraising by sponsoring and planning events. The new facility was not built until they had exhausted all room at the old facility. The new facility was built before the Schools Field Trip budget was cut. All of the above matters had occurred at the same time.

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City Manager Bourey reminded, in addition to the above-noted events, the VLM had experienced a major flood. The City offered the VLM a challenge grant in FY 2015, which required the VLM to raise private sector funding. The City would match every public dollar that the VLM raised. The VLM was able to significantly increase its funding, which was the reason the City felt they needed to be on their own. In reality, the VLM would never fully be able to be self-sufficient. A survey of similar museums was done as part of the Performance Audit, which noted that most museums received local, state and/or federal subsidies as they did not have a sustainable model.

Councilwoman Cherry advised that she loved the VLM, but wondered what their Executive Board was doing to acquire additional funding to become self-supportive. She asked about their Five-Year Strategic Plan. City Manager Bourey replied that the VLM's Strategic Plan included starting an endowment to help sustain its operating funds overtime, and they needed help to get there.

Councilwoman Cherry inquired about the VLM's Strategic Plan for funding, outside of what they would receive from the City. City Manager Bourey replied that they were continuing to look for subsidies by going out to private parties to raise funds for an endowment that would pay a significant portion of their ongoing operating costs and for their capital improvements. Their strategy was to rely upon private philanthropy to make up the difference in the public funding that they received. Councilman Bateman stated they were using their funding more efficiently by leasing their facility out for weddings, receptions, community meetings, which was also a part of their Strategic Plan.

City Manager Bourey advised that the Audit examined fees charged by similar museums around the country, especially in the Southeast. The representatives of the VLM felt that their fees were in line with those charged by other museums in the country.

City Manager Bourey stated there was a physiological argument about how much would be appropriate to fund the VLM, which was why the City provided the \$528,000. For two years, the City provided the VLM with an additional \$400,000. The recommendation for 2015 was to offer the VLM a challenge grant and they raised three times what the public sector did. The City was at \$528,000, which he felt was sustainable as a grant and as a regional contribution.

Councilwoman Cherry inquired whether it was the City Manager's recommendation to provide the VLM with \$528,000 on an annual basis. City Manager Bourey replied yes, as the City had provided for many years.

Councilwoman Cherry reiterated that she wanted to know what the VLM was doing. When was a report going to be given to the City if the City provided them with \$528,000? She was not

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trying to be harsh, but just wanted to know what the VLM was doing and when they would come and provide the City with a report about their fiscal responsibility for sustainability. City Manager Bourey stated they would be happy to provide the information. He stated the City received some information from the VLM in 2015 about what they raised. He recognized Ms. Page Hayhurst, Executive Director, VLM, who was in attendance. He felt the representatives of the VLM would be happy to attend a meeting to provide the information.

Ms. Hayhurst stated that the VLM had a five year plan that she would be happy to share.

Councilman Bateman inquired whether the VLM had ongoing initiatives to locate grants. Ms. Hayhurst replied yes, they were always trying to locate grant funding. She stated that the funding received from the City was approximately 15% of their total operating budget. The VLM provided \$9 million in economic impact to the City.

City Manager Bourey stated that a Work Session presentation could be scheduled to share the VLM's strategic plan. Councilwoman Cherry replied that she would like a presentation to be scheduled.

Councilman Bateman advised that the lease needed to be renewed one way or the other, because the City owned the property and wanted the VLM to remain.

IV. Comments/Ideas/Suggestions

Councilwoman Woodbury asked the City Manager to be more specific concerning her e-mail message to him about trees that were being cut down adjacent to the Newport News/Williamsburg International Airport (NNWIA), rather than his response that the trees were being cut down due to safety reasons. City Manager Bourey replied that there was a question raised about whether the trees were on the airport property. The trees were located near, and on a parcel of undeveloped land adjacent to the trailer park and were losing branches and falling down. An assessment was done and determined that some of the trees needed to be cut down due to safety issues because many frequented the area to walk.

Councilwoman Woodbury inquired whether that was the area proposed for the new SCOT Center for Newport News Public Schools. City Manager Bourey replied no.

Councilwoman Woodbury indicated that she had visited the area of the trailer park and witnessed that the area looked as if it was being cleared for a future project. City Manager Bourey replied the area was being cleared for a walking path and the trees were removed due to safety concerns.

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Councilwoman Scott inquired whether her concern regarding the Fire Department and Police Department uniforms being the same color had been addressed. City Manager Bourey replied that the Fire Department personnel planned to revert back to their previous uniform colors.

Councilwoman Scott stated in light of the national news and her prior request since being a member of City Council, she wanted City Council to consider appointing a Citizen's Review Board to cover controversial matters that may arise that were as devastating as what had happened in other parts of the country in regards to shootings of civilians by Police Officers. She felt it was important to have a tool such as a Citizen's Review Board should issues arise in the City of Newport News. It was important to have a group of people independent of City officials and staff, who could be engaged if there was a situation. She asked the members of City Council to give the matter consideration. She recalled that she had brought the matter up several times in the past, but did not remember the pros and cons of doing such.

City Attorney Owens replied he recalled that there were some pros and cons noted during the time of the former City Attorney Katz. He believed part of the reason was that when you were investigating the activity of Police Department employees that they were entitled to some degree of privacy. Should a grievance hearing be held, it was the employee's choice in whether they wanted it open or closed to the public as it was a private personnel matter. In the State of Virginia, personnel matters were considered privileged, which was one of the major issues experienced.

Councilman Bateman stated the City had not found its process to be flawed. He felt because of what the City Attorney stated that was the main reason for not appointing a Citizen's Review Board.

Councilwoman Scott suggested that the City look at how other jurisdictions achieved that goal. She believed it was an important consideration. She would hate to see something catastrophic happen in the City and there was no comfort zone for the citizens and the people involved. There was much going on and anything that rose above the level of what had already happened would be devastating.

Mayor Price recalled that the Chief of Police was going to look into a regional effort as a result of the prior discussion held concerning a Citizen's Task Force. He inquired about the status of the Chief of Police proposal for a regional effort.

City Manager Bourey advised that the conversation was still going on. He believed the issue seemed to be about having another entity available to review what happened in a Police shooting incident. He urged that it be a professional organization that really understood employees because a citizens group would not understand law investigation tools and how they took place.

Councilwoman Scott stated there were citizens who were Police Officers, Detectives, Lawyers, etc. who could be appointed to be on the board. She felt a Citizens Review Board could include professional citizens.

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Councilwoman Cherry advised that the City of Portsmouth Police Department had a Chief Council which was composed of Pastors and other community leaders that had finished the Citizen Police Academy. The Chief Council talked about issues and other things that came up, especially officer involved shootings. The new Police Chief of Portsmouth was working on establishing trust within the community by having a Chief Council. She indicated that she had spoken to Police Chief Myers about the matter. The idea of a Chief Council showed transparency. She believed that graduates of the Citizens' Police Academy were familiar with the Police Department responsibilities and could be part of a Chief Council to hear from the community to provide the feedback to law enforcement.

City Manager Bourey recalled when there was a shooting a year ago there was a tremendous outreach by ministers, which helped the situation, although it was limited. He believed that perhaps, establishing something that was formal and already prepared and gathered could work.

Councilman Harris recalled there was a group of pastors who were getting together to address such issues. City Manager Bourey understood that the group was still active.

Councilman Bateman stated he liked the idea of a regional board as proposed by the Chief of Police. He understood it took time, but felt it was the most logical way to get something placed that would serve as an intermediary step to ensure there was a good process. He asked the City Manager to look into the matter.

Councilwoman Cherry advised that as the City considered a regional approach, one had to remember that everyone in a region did not have the same mindset. She stated law enforcement mentalities could be on a broad scale when considering a regional approach. She felt there was great disparity in different Police Departments, which she experienced from talking to the command staff of various Police Departments. She loved and thanked God for the members of the Newport News Police Department, because of the things that she had witnessed while travelling in other localities. She reiterated that when one talked about a regional board, everyone did not have the same mindset.

City Manager Bourey advised that in light of his past work and perspective, he was in support of the idea of a state agency that had the capacity to review Police matters. He had a conversation with Chief Myers in regards to the incident that happened in 2015 and there was no State capacity to review the incident. If the State had that capacity, he would advocate it as a great source. While, he supported the idea of a regional Police Department approach, he was not sure that the public would trust a review by a fellow police officer from another locality. He supported the idea of an investigation to be done at the State level. He believed that a review by a state agency would provide the best outcome because it would be independent of other police officers. Such a board did not exist, but there could be interest to do so.

Councilwoman Scott asked that the City Attorney look into the repercussions of having a Citizen's Review Board with people from the City of Newport News. She believed that they would have

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the best interest and there could be some possibility for it to be a true Newport News citizen effort. She would like to know if it could be legally done through the City's Charter.

Vice Mayor Vick thanked all who assisted with the Swearing-in Ceremony held earlier today. She indicated she had received many compliments.

Councilwoman Scott invited all to attend the Annual Sister Cities Breakfast scheduled for Friday, July 22, 2016, at 8:00 a.m., at the CNU David Student Union. She stated the event helped the Sister Cities in their funding efforts. This was their second largest fundraiser of the year, which was very successful. The Sister Cities asked for a monetary donation to attend the breakfast. It was scheduled from 8:00 a.m. – 9:00 a.m. She asked all to contact Ms. Kate Helwig, Executive Director, Newport News Sister Cities, Inc., the City Clerk's Office, or she and/or Councilwoman Patricia Woodbury if they would like to attend.

Councilman Harris commended City Manager Bourey for setting up meetings for him to meet the City's Department Directors. He stated the meetings were awesome, he learned a lot, and he appreciated the effort.

Councilman Harris thanked all who assisted with the Swearing-in Ceremony earlier in the day. He stated it was a great experience.

Councilman Harris thanked all who prayed with him and offered support for his father, Rev. Marcellus Harris II. His father sent regards as well. He appreciated all the support in becoming acclimated to the City, and indicated he would continue to absorb as much information as possible.

City Manager Bourey thanked Councilman Harris for the time spent to meet with the City's Department Directors.

Mayor Price, on behalf of the members of City Council, invited Councilman Harris to call either of them should he need any assistance.

City Clerk Mabel Washington Jenkins urged the members of City Council to continue to review their weekly calendars. She reminded about the Grand Opening of Total Wines on July 14, 2016, at 10:00 a.m., at Jefferson Commons, 12551 Jefferson Avenue.

Councilwoman Cherry inquired whether the issue she raised at the June 28, 2016 Work Session, regarding a remedy to alleviate speeding on Marshall Avenue, had been addressed. Assistant City Manager Rohlf stated that the Department of Engineering was working on the issue and should be providing a response to Councilwoman Cherry in the near future.

Councilwoman Cherry inquired about information she received concerning the elevation of railroad tracks and asked whether staff had been looking into the matter. Assistant City Manager Rohlf

replied that the Departments of Engineering and Public Works were working to determine how to fix the issue.

Councilman Bateman inquired whether staff had contacted Ms. Veronica Williams, the Attorney representing the elderly citizens who attended the June 28, 2016 Regular City Council Meeting, to determine how much money they owed to their mortgage companies. He asked whether a telephone number was provided.

Councilwoman Woodbury replied that she had their names, telephone numbers and the amounts they owed. She had been trying to raise money to help the elderly ladies pay their taxes. She was trying to help the 88 year old first and then the handicap individual. She had been able to get commitments of approximately \$4,000. She and the attorney talked at length and she was able to get the 88 year old to declare bankruptcy. She would have to pay her overdue taxes, but she was able to stop the foreclosure of her home.

Councilwoman Woodbury advised that she continued to try to raise money for the two and find a way to funnel it to them. She did not have a 501C so she was trying to work with a bank or credit union to see whether an account could be set-up. In the meantime, the lawyer had a proposal. There were a finite number of people that had been affected by the change from tax exemption to tax deferral. She had voted for the change, but admitted that she was wrong. In looking back at the issue, City Council should have made the conditions more restrictive because people were taking advantage of the situation. Instead of doing away with everything, they should have realized that there were some who had reverse mortgages who could not afford to pay their taxes.

City Manager Bourey stated that on the evening's agenda was a revised ordinance to institute tax exemption for those who qualified, effective and retroactive to July 1, 2016. He stated the City would realize a revenue reduction of approximately \$250,000, but he felt it could be covered.

Vice Mayor Vick advised that when the tax deferral ordinance was passed it was not done to cause a burden on people with reverse mortgages. She recalled that City Council had agreed to revisit the matter in several years to see whether it was working or whether an amendment was needed. The proposal was not adopted to cause harm to anyone. It was passed because people were living longer, and it was weighing on the City's tax base.

Councilwoman Woodbury agreed, and recalled that former Vice Mayor Madeline McMillan had warned about the reverse mortgage situation, but she did not listen. She voiced concern for individuals who were suffering. She had spoken to credit union representatives about setting up an account for donations to help the two women who attended the June 28, 2016 Regular City Council meeting.

Councilman Bateman indicated that the reverse mortgage companies needed to learn from this situation, because they could not control City governments. He was sorry that such happened,

but mortgage companies needed to learn from this as did the City. He indicated that he would try to help as well.

Councilwoman Scott pointed out that reverse mortgage holders could qualify for a line-of-credit if they had equity in their homes. Councilman Bateman stated that some reverse mortgage companies did not allow an applicant to secure a second mortgage.

Councilwoman Scott understood that some reverse mortgage companies did not allow applicants to secure a second mortgage; however, there were some reverse mortgage companies who did allow such, as she knew someone who had obtained a second mortgage.

Councilman Bateman reiterated that a second mortgage was allowable under some reverse mortgages, but not all.

City Manager Bourey reminded about the World Arts Celebration scheduled for Saturday, July 16, 2016, at City Center at Oyster Point Fountain Plaza, from 4 p.m. – 9:00 p.m. He stated it would be an amazing event with representation from approximately 30 countries. It was a celebration of all cultures in the City.

Councilwoman Scott inquired whether the Department of Parks, Recreation and Tourism planned the event. City Manager Bourey replied it was a combination of efforts that was between the Virginia Arts Festival and the Department of Parks, Recreation and Tourism. The Department of Parks, Recreation, and Tourism was not as involved as they were in 2015. The Virginia Arts Festival had assisted more with the entertainment.

Councilwoman Scott inquired about the amount of local entertainment that was included in the event. City Manager Bourey replied he would get the information and provide it to City Council.

Councilwoman Scott stated when she suggested the event several years ago she appreciated the way it was done, but she did want the City to include as many local entertainers as possible. She stated the idea was born from local entertainers who wanted to participate and heal the City. They were now going to the Southside where more opportunity presented itself. She asked the City Manager to provide her with the information.

Councilwoman Woodbury reminded about her request for a Resolution of Recognition for Dudley's Driving School that was requested several meetings ago. She believed the history of the family and founder, Ms. Sadie Belle Howell-Dudley, being the first African American to start a driving business warranted them such recognition. She would appreciate the support of City Council to consider the matter.

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Mayor Price reminded about the request from Senator Tommy Norment asking for monetary assistance from the City to erect a memorial in honor of the late State Trooper Chad Phillip Dermeyer who was killed in the line of duty on March 31, 2016. He asked City Council to support the appropriation of funds from the City Council Contingency Fund. There was support among City Council to appropriate the needed funding from the City Council Contingency Fund.

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


Jennifer D. Walker, MMC
Chief Deputy City Clerk

McKinley L. Price
Mayor
Presiding Officer

A true copy, teste:

City Clerk

F. Consent Agenda

4. Minutes of the Special Meeting of July 12, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of Special Meeting of July 12, 2016

MINUTES OF SPECIAL MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE 10TH FLOOR CONFERENCE ROOM
2400 WASHINGTON AVENUE
July 12, 2016
5:20 P.M.

PRESENT: Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III;
McKinley L. Price, DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P.
Woodbury-----7

ABSENT: None-----0

OTHERS PRESENT: James M. Bourey; Collins L. Owens, Jr.; Mabel Washington Jenkins;
Cynthia Rohlf; Alan K. Archer; Florence Kingston; and Jennifer Walker

After ascertaining that proper meeting notice had been provided to each member of City Council, Mayor Price called the meeting to order and stated the meeting was being held for the following purpose:

- (1) To call a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia, 1950, as amended, subsection: (5) a discussion of a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating a facility in the community, the subjects of which are prospective new businesses in the central and southern sections of the City.

Councilwoman Cherry moved for a closed meeting under section and reasons cited above; seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott Vick, Woodbury

Nays: None

Councilman Bateman filed a declaration in accord with Section 2.2-3115H of the Virginia Code. He declared, pursuant to subdivision A.3 of §2.2-3112 of the Virginia Conflict of Interest Act, for the Closed Session Agenda of July 12, 2016, (i) the City Manager would discuss with the Newport News City Council the sale of private rights/ownership in City Center, and some action by the City may be necessary to effectuate the sale; (ii) that TowneBank had the possibility of being the financing agent for the purchaser of the said property; (iii) that TowneBank is a group of three or more persons the members of which were indirectly affected by the transaction in question; (iv) that he was employed as Executive Vice President of TowneBank, but would not receive any direct compensation from the TowneBank financing previously mentioned, and the purchaser was not a personal client of his at TowneBank; and (v) that he was able to participate in the transaction fairly, objectively, and in the public interest (a signed written declaration was filed with the City Clerk prior to the City Council meeting at which the transaction was considered – July 12, 2016; and is attached and made a part of these minutes).

(Closed Session 5:20 p.m. – 6:01 p.m.)

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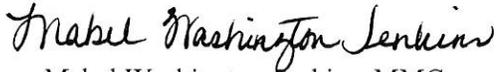
After reconvening in open session, Councilwoman Cherry moved to certify that to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting by the Council. Motion seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott Vick, Woodbury

Nays: None

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 6:01 P.M.


Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

DRAFT

CERTIFICATE OF CLOSED MEETING

MEETING DATE: July 12, 2016
MOTION: Councilwoman Sandra N. Cherry, D. Min.
SECOND: Vice Mayor Tina L. Vick

WHEREAS, the City Council of the City of Newport News has convened a closed meeting on this date pursuant to an affirmative recorded vote as required under the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia, 1950, as amended, requires a certification by this City Council that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newport News does hereby certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the City Council.

VOTE

AYES: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury
NAYS: None
ABSTENTION: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

ATTEST:



Mabel Washington Jenkins, MMC
City Clerk

DECLARATION IN ACCORD WITH SECTION 2.2-3115H OF THE VIRGINIA

I, Herbert H. Bateman, Jr., a member of the Newport News City Council, do hereby declare, pursuant to subdivision A 2 of § 2.2-3112 of the Virginia Conflict of Interest Act, that for the City Council Closed Session Agenda of July 12, 2016, (i) the City Manager will discuss with the Newport News City Council the sale of private rights/ownership in City Center and some action by the City may be necessary to effectuate the sale; (ii) TowneBank has the possibility of being the financing agent for the purchaser of the said property; (iii) TowneBank is a group of three or more persons the members of which are indirectly affected by the transaction in question; (iv) that I am employed as an Executive Vice President of TowneBank but will not receive any direct compensation from the TowneBank financing previously mentioned, and the purchaser is not a personal client of mine at TowneBank; and (v) that I am able to participate in the transaction fairly, objectively, and in the public interest.

This signed written declaration is filed with the City Clerk prior to the City Council meeting at which the transaction is considered, this 12th day of July, 2016, to be recorded in written minutes of the July 12, 2016 City Council meeting.

By: 
Herbert H. Bateman, Jr.

F. Consent Agenda

5. Minutes of the Regular Meeting of July 12, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

Minutes of Regular Mtg 7 12 13

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**MINUTES OF REGULAR MEETING
OF THE NEWPORT NEWS CITY COUNCIL
HELD IN THE CITY COUNCIL CHAMBERS
2400 WASHINGTON AVENUE
JULY 12, 2016
7:00 P.M.**

PRESENT: Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III;
McKinley L. Price; DDS; Sharon P. Scott; Tina L. Vick; and Dr. Patricia P.
Woodbury-----7

ABSENT: None-----0

A. Call to Order

Mayor Price called the meeting to order and welcomed all. He extended a special welcome to Councilman Marcellus L. Harris III, and advised that this was his first meeting of the Newport News City Council.

Mayor Price stated the City Code identified the procedure for citizen participation regarding items on the Council agenda, as well as the opportunity for citizens to address City Council on matters germane to the business of the Council. He explained matters that were germane to the business of Council meant matters that the City Council, by law, were empowered to act upon. This did not include announcements that were personal to an individual, business, or organization. He pointed out copies of the ordinance highlighting citizen participation and encouraged citizens to review the document.

Mayor Price requested that cell phones and/or pagers be silenced or turned off.

B. Invocation

Mayor Price provided the invocation. He shared a writing by Mother Theresa, entitled "Life Is."

C. Pledge of Allegiance to the Flag of the United States of America

The Pledge of Allegiance to the Flag of the United States of America was led by Councilman Herbert H. Bateman, Jr.

D. Presentations

1. Sister Cities – Greifswald, Germany Trip Pictorial Presentation

Ms. Kate Helwig, Executive Director, Sister Cities Newport News, stated that Councilmember Dr. Patricia Woodbury led a delegation to Greifswald Germany during the Spring. She and members of the delegation shared highlights of the trip, along with a slide show presentation.

Members of the delegation that spoke highly of Sister Cities, and the trip, included Ms. Mary Lou Call; Mr. William Eric Eastburn; Ms. Phyllis Ann Kohlman; Mr. Alex

D. Presentations Continued

1. Sister Cities – Greifswald, Germany Trip Pictorial Presentation Continued

Ryan Piacenti; Mr. James E. Taylor; Ms. Virginia Ann Taylor; Mr. Friedgard VB Hodges; and Councilmember Dr. Patricia P. Woodbury.

E. Public Hearings

1. Ordinance Authorizing the City Manager to Execute Any and All Documents Necessary to Effectuate the Conveyance of Two (2) City-Owned Parcels Located at 606-41st Street and 626-40th Street to the Newport News Redevelopment and Housing Authority (NNRHA)

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 THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY. This ordinance authorized the City Manager to execute any and all documents, including deeds, necessary to effectuate the conveyance of two (2) City-owned parcels located at 606-41st Street and 626-40th Street to the Newport News Redevelopment and Housing Authority (NNRHA), in support of its continued revitalization efforts in the Southeast Community. NNRHA intended to assemble the properties with abutting NNRHA-owned parcels for the development of single-family homes in the near future. A review by all appropriate City departments indicated there were no objections to the City conveying the requested surplus parcels. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Councilwoman Cherry.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

Vice Mayor Vick moved adoption of the above ordinance; seconded by Councilwoman Cherry.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

E. Public Hearings Continued

2. Ordinance Amending City Code, Chapter 15, Elections; Article I., Voting Precincts; Section 15-47, Voting Places in Respective Voting Precincts; thereby Authorizing the Relocation of the Jefferson Precinct from Marshall Courts Recreation Center to Huntington Middle School

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, ELECTIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I., VOTING PRECINCTS, SECTION 15-47, VOTING PLACES IN RESPECTIVE VOTING PRECINCTS. This ordinance amended the City Code, Chapter 15, Elections; Article I., Voting Precincts; Section 15-47, Voting Places in respective voting precincts; thereby authorizing the relocation of the Jefferson Precinct from Marshall Courts Recreation Center to Huntington Middle School. The Newport News Electoral Board recommended the temporary relocation of the Jefferson Precinct from the Marshall Courts Recreation Center because the facility was closing for renovations. The Board's proposal was to relocate the precinct to Huntington Middle School. The voters would be notified of the temporary relocation. Proper signage would be placed at the old polling location. The City Manager recommended approval.

(No registered speakers)

Councilwoman Woodbury moved closure of the public hearing; seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

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

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

3. Ordinance Authorizing the City Manager to Execute a Lease, By and Between the City of Newport News and the Newport News Police Foundation

AN ORDINANCE 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 LEASE DATED THE 12TH DAY OF JULY, 2016, BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND THE NEWPORT NEWS POLICE FOUNDATION. This ordinance authorized the City Manager to execute a lease, by and between the City of Newport News and the Newport News Police Foundation (NNPF), to lease land to construct a canine facility. The NNPF was a nonprofit

E. Public Hearings Continued

3. Ordinance Authorizing the City Manager to Execute a Lease, By and Between the City of Newport News and the Newport News Police Foundation Continued

organization that provided support for efforts to enhance police and community relations. One of the projects the Foundation initiated was building a facility for the Police Department's canines. Through donations of work and material, the goal of the NNPF was to have the facility completed within a 12-month period. The facility would be located at 561 McLawhorne Drive. The NNPF requested a one-year lease, commencing on August 1, 2016, with the option for two one-year renewals. Upon completion of constructing the canine training facility, the facility and land would become the property of the City. The City Manager recommended approval.

Mr. Joe S. Frank, 2 Madison Circle, Newport News, was present in the audience to answer any questions.

Councilwoman Bateman moved closure of the public hearing; seconded by Councilwoman Cherry.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

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

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

F. Consent Agenda

Councilwoman Woodbury moved adoption of the Consent Agenda, Items 1 through 4, both inclusive, as shown below; seconded by Vice Mayor Vick.

1. Minutes of the Special Meeting of June 28, 2016

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Price, Scott, Vick, Woodbury

Nays: None

Abstention: Harris (Had not been sworn in as a member of City Council at the Special Meeting of June 28, 2016)

F. Consent Agenda Continued

2. Minutes of the Work Session of June 28, 2016

Vote on Roll Call:

Ayes: Bateman, Cherry, Price, Scott, Vick, Woodbury

Nays: None

Abstention: Harris (Had not been sworn in as a member of City Council at the Work Session of June 28, 2016)

3. Minutes of the Regular Meeting of June 28, 2016

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Price, Scott, Vick, Woodbury

Nays: None

Abstention: Harris (Had not been sworn in as a member of City Council at the Regular Meeting of June 28, 2016)

4. Resolution of Appreciation: The Honorable Robert S. Coleman

A RESOLUTION OF APPRECIATION FOR THE HONORABLE ROBERT S. COLEMAN FOR HIS FOUR YEARS OF SERVICE AS A MEMBER OF THE NEWPORT NEWS CITY COUNCIL. This resolution honored the Honorable Robert S. Coleman. Since 2012, Robert S. Coleman served the citizens of the City of Newport News as a representative of the North District. On July 8, 2014, he was selected to serve as Vice Mayor by his peers on City Council. Mr. Coleman was a passionate, vocal leader, and an advocate for the citizens of his district, in addition to the citizens of the City as a whole. Mr. Coleman rose through the ranks of the Sheriff's Office, working from Corrections Deputy to his current rank of Major. He was active in several civic organizations, and was a founding member of the Denbigh Youth Alliance. This Resolution of Appreciation was to express heartfelt appreciation to the Honorable Robert S. Coleman for his many contributions to the City, the Virginia Peninsula, the Hampton Roads region, and as a token of respect from the Newport News City Council. The City Manager recommended approval

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

G. Other City Council Actions

1. Ordinance Amending City Code, Chapter 40, Taxation; Article II., Real Estate Taxes, Division 3., Deferral for Elderly and Disabled Persons, Sections 40-46, 40-47, 40-48, 40-49, 40-50; and Adding New Sections 40-51, 40-51.1, 40-51.2, 40-51.3, 40-51.4, 40-51.5; and Deleting Section 40-53, Nullification Upon Change in Status

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 40, TAXATION, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, BY RECODIFYING ARTICLE 11., REAL ESTATE TAXES, DIVISION 3., DEFERRAL FOR ELDERLY AND DISABLED PERSONS. This ordinance amended the City Code, Chapter 40, Taxation, Article II., Real Estate Taxes, Division 3., Deferral for Elderly and Disabled Persons to allow for, and define a limited Elderly Tax Exemption Program for qualified individuals. On May 12, 2011, City Council adopted Resolution #6786-11, altering the tax exemption program to a tax deferral program. A limited tax exemption program was required to be re-instated for property owners that met program qualifications. The tax exemption qualifications were the applicant must be 65 years or older; own a residence on a one acre parcel or less, have an annual income of \$25,000 or less, and have qualified assets of \$10,000 or less. All other conditions and qualifications for tax deferral remained unchanged. This change would be effective with the adoption of this ordinance. The minimum permanent estimated loss of Real Estate Tax revenue base on this limited tax exemption change was \$255,000.00 to \$500,000.00 annually. The estimate was based on the FY 2016 Real Estate Tax Rate assessment. Annual revenue foregone was subject to the number of qualified participants, the real estate tax rate, and the property assessment. The City Manager recommended approval.

(No registered speakers)

Councilman Bateman moved adoption of the above ordinance as amended; seconded by Councilwoman Woodbury.

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

H. Appropriations

Councilwoman Scott moved adoption of Appropriations, Items 1 and 2, as shown below; seconded by Vice Mayor Vick.

1. Department of Engineering – New Townhomes Development and 7-Eleven Developer: Traffic Signal and Pedestrian Improvements

A RESOLUTION APPROPRIATING FUNDS FROM LOCAL REVENUE (\$70,000.00) TO WARWICK BOULEVARD AND INDUSTRIAL PARK DRIVE

H. Appropriations Continued

1. Department of Engineering – New Townhomes Development and 7-Eleven Developer: Traffic Signal and Pedestrian Improvements Continued

TRAFFIC SIGNAL AND PEDESTRIAN IMPROVEMENTS (\$35,000.00) AND WARWICK BOULEVARD AND CENTER AVENUE TRAFFIC SIGNAL AND PEDESTRIAN IMPROVEMENTS (\$35,000.00). This resolution appropriated \$70,000.00 in funds from the developer of the new townhomes development and the developer of the 7-Eleven at 9512 Warwick Boulevard, for the traffic signal and pedestrian improvement projects at the intersections of Warwick Boulevard and Industrial Park Drive, and Warwick Boulevard and Center Avenue respectively. The developer of the new townhomes development and the developer of the 7-Eleven at Warwick Boulevard and Center Avenue were both contributing \$35,000.00 each for the construction of these two projects at their respective intersections. To date, City Council appropriated \$300,000.00 of State Revenue Sharing Program funds, and City matching funds, on a 50/50 cost sharing basis, for each project. The funds being contributed would fully fund the construction phase of both projects, which were estimated at \$335,000.00 each. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

2. Department of Engineering – Federal and State Grant Funding: Newport News Transportation Center (NNTC) Project

A RESOLUTION APPROPRIATING FUNDS FROM FEDERAL REVENUE – CONGESTION MITIGATION AND AIR QUALITY (CMAQ), REGIONAL SURFACE TRANSPORTATION PROGRAM (RSTP) (\$10,748,986.00), STATE REVENUE – CMAQ/RSTP (\$2,687,246.00), STATE REVENUE – INTERCITY PASSENGER RAIL OPERATING COSTS (\$6,000,000.00) TO NEWPORT NEWS TRANSPORTATION CENTER PROJECT DESIGN AND CONSTRUCTION (\$19,436,232.00). This resolution appropriated \$19,436,232.00 of Federal and State Grant funds for the Newport News Transportation Center (NNTC) Project. The City had secured funds from the Congestion Mitigation and Air Quality (CMAQ) Program, Regional Surface Transportation Program (RSTP), and Intercity Passenger Rail Operating Costs (IPROC) Program for the final design and initial construction phase of this project. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

Ayes: Bateman, Cherry, Harris, Price, Scott, Vick, Woodbury

Nays: None

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

Mr. David Niesel, 178 Normandy Lane, Newport News, commented on the proposed traffic calming initiatives on Maxwell Lane. He reminded members of Council that he addressed them on the same matter in January 2016, when he shared percentages about people violating the speed limit on Maxwell Lane, which is a 25 mph zone. Mr. Niesel advised, based on the 2012 traffic study, 300 people per day travel in the 35-40 mph range; 600 people per day travel in excess of 40 mph between Normandy Lane and Warwick Boulevard. The proposal for speed bumps was discussed, but speed bumps would not be an option, with the Police Department and the Fire Department voting against it. Citizens were misled thinking that speed bumps would be in a one block stretch, because speed humps not bumps, were to be all the way down Maxwell Lane. The Yacht Club, which had speed bumps on its property, also spoke against speed bumps on Maxwell Lane. Mr. Niesel advised that the latest round of testings from the City's Department of Engineering had been successful, and included medians and islands in the middle of the street and bump-outs at the curbs, forcing people to stop at stop signs, and reduced the speed overall. The residents were told that their voices and concerns would be heard and given equal value, which did not appear to have occurred.

Councilwoman Woodbury inquired about Mr. Niesel's source for his statistics. Mr. Niesel responded that his statistics were from a 2012 Traffic Study conducted by the City's Department of Engineering. The amount of traffic and the number of people violating the speed limit, qualified the Maxwell Lane area for the traffic calming initiative. Councilwoman Woodbury inquired about the school zone. Mr. Niesel replied that the effected school zone was from Lolas to the corner of Maxwell and Normandy, and the school zone fell out of the affected area.

Councilwoman Woodbury advised that most travelers were respectful of a school zone. Mr. Niesel advised that was not true. He had seen otherwise firsthand.

Councilwoman Scott inquired about the final verdict. Mr. Niesel advised that it was determined that something needed to be done, but the residents on Maxwell Lane were voted down. The second round of testing ended early due to the receipt of too many complaints by the City Manager. Councilwoman Scott expressed concern and hope to reach resolution to the matter. She asked City Manager Bourey to get involved in the process and find out what traffic calming measures would be taken.

Councilman Bateman understood that sandbags had been used to outline other additional traffic calming measures; but did not work, and rubber was then poured in molds. He inquired where the Engineers were in the process regarding the traffic calming measures on Maxwell Lane, and questioned whether there was some hope that something would be done and be something to which everyone could agree.

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

City Manager Bourey responded that he was hopeful that something would be done. He stated that staff was in the process of obtaining recommendations from the Department of Engineering, and he would share the information with City Council during a Work Session. This was an issue about which the public was very concerned, and should receive Council input. He explained that the Department of Engineering would make some proactive recommendations to address the traffic issue. City Manager Bourey indicated that no measure would please 100% of the residents. He stated staff would find something that satisfied the need to address speeding and the concern of some citizens.

Councilwoman Scott indicated that this matter was similar to the issue in Colony Pines years prior, at Red Oak Circle, and went on for years before anything was resolved. She hoped this matter would not take years before a resolution was reached. She invited the residents on Maxwell Lane to the Work Session to sit in and hear the discussion to receive firsthand information from the Engineers.

Mr. Lee Peddicord, 411 Bryan Court, Newport News, petitioned City Council to assist with the proposed alteration to the soundwall on City Center Boulevard. He lived on Bryan Court, in the neighborhood behind the soundwall. He advised that the neighbors were concerned about the potential for increased traffic, crime outlets, trash, and a number of other things that could potentially occur. He advised there was no need or desire, on behalf of the residents, to have the soundwall altered to justify the expense.

Ms. Katie Peddicord, 411 Bryan Court, Newport News, advised that she had lived on Bryan Court for 16 years, through the fruition of City Center Boulevard. She referenced the proposal to open a pedestrian access directly behind her house. She understood that there were plans to construct a parallel soundwall, with a door in the paralleled area. The residents were worried that the space would be unmonitored. Police would not be able to see what went on, and this was scary as the mother of two young girls. She stated it would cost \$100,000 to open the proposed pedestrian access, and felt it was unnecessary. There were not enough people to warrant the expense required to open the pedestrian access. Ms. Peddicord stated that it would be easier to monitor the main roads, rather than having to worry about the empty space created by the parallel wall. Residents were worried about an abundance of litter and trash, with a 7-Eleven being constructed at the corner of Nettles Drive and City Center Boulevard. She advised that the property values had already taken a hit with the construction of City Center Boulevard. Residents once had a view of trees, but that had changed into a view of a soundwall. There was a proposal to construct a parallel wall with access and a sidewalk. Ms. Peddicord advised that the plans sent to the residents did not make sense until the Public Hearing to receive public input, at Yates Elementary School (73 Maxwell Lane), on Thursday, June 30, 2016. She further advised that the letter was sent to only eight residents, which was not fair to the taxpayers, knowing that the project would cost \$100,000 to construct.

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

Councilwoman Scott inquired about the number of affected citizens. Ms. Peddicord replied that there were 10 duplexes in her Circle, but many others beyond. This would affect all residents at the front of the Glendale neighborhood.

City Manager Bourey responded that he requested the Public Hearing to obtain citizen input. The Public Information Session was held on Thursday, June 30, 2016, at Yates Elementary School. He advised that there was more opposition than not. It was clear that there was overwhelming opposition, i.e. 37 home owners were represented at the Public Hearing, and 34 expressed opposition. He advised that he had no intention of proceeding with making changes to the soundwall along City Center Boulevard. The public comment period was extended until July 18, 2016, and he did not want to preclude that; however, he stated the alteration of the soundwall was not a good idea, nor was the solution a good idea. There had been some interest by a few parties in the neighborhood to have a cut through. He reiterated that it was clear that an overwhelming number of citizens expressed opposition and he did not intend to proceed with a cut through unless a member of Council had a difference of opinion.

Councilwoman Woodbury stated that she did not. She had attended the Public Hearing on June 30, 2016, at Yates Elementary School (73 Maxwell Lane) and saw the number of citizens and families that expressed concern and would be affected. She advised that only three people at the Public Hearing thought the cut through was a good idea. Councilwoman Woodbury stated it would not be a good use of taxpayer funds to construct a cut through in the soundwall. She was appreciative of the City Manager's decision not to proceed with the cut through in the soundwall.

Councilman Bateman explained why he was unable to attend the Public Hearing on June 30, 2016, as he was on vacation. He advised that he and Dr. Woodbury were in agreement with regard to the opening in the soundwall.

City Manager Bourey stated that it was clear that no member of Council objected to his decision not to proceed with alteration of the soundwall. He advised citizens that they could go home with assurance and comfort that nothing would be done to the soundwall.

Ms. Brooke Barbir, 412 Bryan Court, Newport News, chose not to speak on the topic expressing her opposition to construction of an opening in the soundwall along City Center Boulevard after hearing City Manager Bourey's decision not to proceed with alteration of the soundwall.

Ms. Suzanne Epperley, 413 Bryan Court, Newport News, chose not to speak on the topic expressing her opposition to construction of an opening in the soundwall along City Center Boulevard after hearing City Manager Bourey's decision not to proceed with alteration of the soundwall.

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

Mr. Chris Epperley, 413 Bryan Court, Newport News, chose not to speak on the topic expressing her opposition to construction of an opening in the soundwall along City Center Boulevard after hearing City Manager Bourey's decision not to proceed with alteration of the soundwall.

Mr. Orlando Alvarez, 2629 Spring Road, Newport News, chose not to speak on the topic expressing her opposition to construction of an opening in the soundwall along City Center Boulevard after hearing City Manager Bourey's decision not to proceed with alteration of the soundwall.

Ms. Barbara Alvarez, 2629 Spring Road, Newport News, chose not to speak on the topic expressing her opposition to construction of an opening in the soundwall along City Center Boulevard after hearing City Manager Bourey's decision not to proceed with alteration of the soundwall.

Mr. John Gergely, 449 Winterhaven Drive, Newport News, presented petitions signed by citizens in opposing the construction of an opening in the soundwall and chose not to speak on the topic expressing his opposition to construction of an opening in the soundwall along City Center Boulevard after hearing City Manager Bourey's decision not to proceed with alteration of the soundwall (a copy of the petitions are attached and made a part of these minutes).

Ms. Christine Gergely, 449 Winterhaven Drive, Newport News, advised that she and her husband had resided on Winterhaven Drive for approximately 40 years and in the neighborhood since 1968. She shared that the Glendale and Winterhaven neighborhoods were terrorized in 1991 by a string of burglaries, whose origin began at the apartments at 400 Turlington. As a result, fear overcame the neighborhood, and families moved out of the area. Her home was burglarized in broad daylight, and they waited for three hours for the police to arrive. Ms. Gergely stated that this was the beginning. She did not want anyone to experience the horror she felt. Crime statistics in the area was approximately 26 pages, which came mostly from the apartments at 400 Turlington. Neighbors feared that this would access the opening in the soundwall. The soundwall protected them from some of the crime, but could not be monitored or protected if a pedestrian access was constructed in the soundwall. She was appreciative of the City Manager Bourey's decision not to proceed with alteration of the soundwall because they were trying to make their neighborhood safe for their young children.

Mr. Antonio Thompson, 1211-25th Street, Newport News, asked for a moment of silence in honor of the slain police officers of Dallas, Texas (a heavily armed sniper turned a demonstration against fatal police shootings of black men in Minnesota and Louisiana from a peaceful march into a scene of chaos and bloodshed. The sniper gunned down police officers in downtown Dallas, killing five.)

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

Mr. Thompson addressed City Council on the topic of the City's treasury enrichment, public safety and security, as well as the importance of recycling and the legalization and cultivation of marijuana. He encouraged citizens to support the Newport News Police Foundation – www.newportnewspolicefoundation.com, or P.O. Box 11012, Newport News, Virginia 23601.

Mr. Thompson asked the City Council to authorize him to have a gun since his rights were restored by Governor Terry McAuliffe. He could vote, run for office, serve on jury duty, or other Council appointed boards.

J. New Business and Councilmember Comments

City Manager Bourey congratulated Councilwoman Patricia Woodbury on her re-election to the Newport News City Council and stated that he looked forward to working with her over the next four years.

City Manager Bourey welcomed newly elected Councilman Marcellus L. Harris III to the Newport News City Council. City Manager Bourey commended Councilman Harris who had worked very hard to meet with all of the departments and spend a tremendous amount of time learning about the City of Newport News.

City Manager Bourey congratulated Councilwoman Tina Vick on her re-election to the Newport News City Council and on being elected as Vice Mayor. He stated that he looked forward to working with her over the next four years.

City Manager Bourey announced the rescheduled World Arts Celebration, on Saturday, July 16, 2016, 4:00 – 9:00 p.m., at City Center at Oyster Point (735 Town Center Drive). He advised that many diverse cultures would be represented. He encouraged all citizens to attend this spectacular event. International food vendors, free children's activities, cultural exhibits, and three stages full of non-stop entertainment would make the event fun for all. The event was presented by the City of Newport News, Newport News Sister Cities, and the Virginia Arts Festival.

City Clerk Mabel Washington Jenkins, congratulated and welcomed newly elected Councilman Marcellus L. Harris III to the Newport News City Council. She also congratulated Councilwoman Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council, and Councilwoman Vick on being elected as Vice Mayor. She looked forward to working with each of them again.

Councilman Bateman congratulated and welcomed newly elected Councilman Marcellus L. Harris III to the Newport News City Council. He also congratulated Councilwoman Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City

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July 12, 2016

J. New Business and Councilmember Comments Continued

Council, and Councilwoman Vick on being elected as Vice Mayor. He looked forward to working with each of them again. He promised to live up to his commitment to his constituents to not filibuster and embellish longer than three minutes under Councilmember Comments.

Councilwoman Cherry thanked the citizens for their attendance and participation at the meeting to share their views. She reminded them that their voice did matter to City Council. She thanked Mr. and Mrs. Gergely and neighbors for sharing their concerns regarding the soundwall along City Center Boulevard. It was very important for all citizens to know the importance of attending City Council meetings and sharing their concerns.

Councilwoman Cherry congratulated Councilwoman Dr. Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council, and Councilwoman Vick on being elected as Vice Mayor. Councilwoman Cherry congratulated and welcomed newly elected Councilman Marcellus L. Harris III to the Newport News City Council. She looked forward to working with each of them again.

Councilwoman Cherry extended congratulations to Mr. Everette “Teddy” Hicks on his retirement from the Newport News Public School Board. She had the pleasure of attending a retirement reception in his honor on Monday, July 11, 2016, 5:30 – 7:00 p.m., at the W. Henry Maxwell Family Life Center, Ivy Baptist Church (50 Maple Avenue).

Councilwoman Cherry thanked City Manager Bourey and the staff of the Department of Parks, Recreation, and Tourism for the great 4th of July Stars in the Sky celebration and fireworks on Monday, July 4, 2016.

Councilwoman Cherry and colleagues participated in the Historic Hilton Village 4th of July Parade on Monday, July 4, 2016. This annual Hilton community event was sponsored by Historic Hilton Village, Inc. and focused on youth and families.

Councilwoman Cherry announced that the South District “Your Voice Matters” Town Hall Meetings would be held on Thursday, July 14, 2016, 6:00 – 7:30 p.m., at the Brittingham Midtown Community Center (570 MacLawhorne) for residents from Mercury Boulevard South to the waterfront; and on Thursday, July 21, 2016, 6:00 – 7:30 p.m., at the Downing-Gross Cultural Arts Center (2410 Wickham Avenue) for residents from Mercury Boulevard South to the waterfront. A presentation would be provided by School Board member, Mr. Carlton Ashby. His presentation would be on the new Discovery STEM Academy, formerly the Magruder Elementary School.

Councilwoman Cherry advised that she was preparing for the 2016 Back to School Community Festival, on Saturday, August 20, 2016, 1:00 – 3:00 p.m., 617-27th Street. The event was for Newport News students only, grades K – 12. All children under 17 years of age must be accompanied by an adult in order to receive school supplies. Approximately 500 backpacks were distributed in 2015. She hoped to distribute at least 500 during the 2016 Community Fest. Donations for school supplies were encouraged. The event was in partnership

J. New Business and Councilmember Comments Continued

with the Downtown Newport News Merchants and Neighbors Association, Inc. and the James A. Fields House, Inc.

Councilman Harris thanked his colleagues for their support. He stated that he was eager to learn more about the City of Newport News and looked forward to working with each of them.

Councilman Harris thanked City Manager Bourey for scheduling meetings on his behalf with all of the City's Department Heads.

Councilman Harris extended congratulations to Mr. Everette "Teddy" Hicks on his retirement from the Newport News Public School Board. He was unable to attend the retirement reception in his honor on Monday, July 11, 2016, 5:30 – 7:00 p.m., at the W. Henry Maxwell Family Life Center, Ivy Baptist Church (50 Maple Avenue). Councilman Harris shared that he respected and looked up to Mr. Hicks for many years as he had served his community greatly.

Councilman Harris acknowledged Mr. Carl Francis, and Mr. Vernon E. Lee, Sr., from the Hampton Roads Youth Foundation, who sponsored the Hampton Roads All-Star Football Camp, Saturday, July 8-9, 2016, at Christopher Newport University. The camp was very well attended, with over 200 children in attendance on both days. The event was free of charge.

Councilman Harris shared that he and his family had the pleasure of attending the 4th of July Stars in the Sky celebration and fireworks on Monday, July 4, 2016. He commended the Newport News Police Department (NNPD) for their hard work and attention to the crowds. He shared that a young lady was in distress, but officers were on the scene to help alleviate the situation.

Councilman Harris commended Mr. Alan Archer, Assistant City Manager, and Ms. MaRhonda Echols, Youth Gang and Violence Prevention Coordinator, for their outstanding work on the Summer Training and Enrichment Program (STEP). He had spoken to and interacted with a number of youth, who were very excited about the program.

Councilman Harris encouraged the citizens to read Newport News Police Chief Myers' article, published in the July 11, 2016 edition of Newport News NOW. His thoughts and perspective on the NNPD in relation to what had occurred in Louisiana and Minnesota were well articulated.

Councilman Harris acknowledged the presence of Ms. LaTonya "Abys" Wallace, a community organizer who put together a "peaceful protest" on Sunday, July 10, 2016, at 7:57 p.m. He commended her for putting the event together in less than one day. He also thanked Chief Myers, and the NNPD for their help with this protest.

J. New Business and Councilmember Comments Continued

Councilman Harris announced that Pastor Willard Maxwell, New Beech Grove Baptist Church (326 Tabbs Lane), would host an “In Touch Community” Basketball Tournament, on Friday, August 12, 2016, 9:00 a.m. – 5:00 p.m., at the Denbigh Community Center (15198 Warwick Boulevard). Admission was free. The Tournament, “Bringing Us Together” in an effort to promote love and unity, was open to all, ages 12 – adult. The Newport News Police Foundation, NNPD, NNFD, Sheriff Department, and other organizations would be present to discuss opportunities for employment and educational scholarships. There would be demonstrations by the fire and police departments, performances by local groups and organizations, music, food and fun. He encouraged the citizens to participate and get involved in this event.

Councilman Harris stated that he was honored and humbled to be on the Newport News City Council and looked forward to working with everyone.

Mayor Price congratulated and welcomed newly elected Councilman Marcellus L. Harris III to the Newport News City Council. He also congratulated Councilwoman Patricia Woodbury and Councilwoman Tina Vick on their re-election to the Newport News City Council, and Councilwoman Vick on being elected as Vice Mayor. He looked forward to working with each of them.

Mayor Price extended congratulations to Mr. Everette “Teddy” Hicks on his retirement from the Newport News School Board. He attended the retirement reception in his honor on Monday, July 11, 2016, 5:30 – 7:00 p.m., at the W. Henry Maxwell Family Life Center, Ivy Baptist Church (50 Maple Avenue). Mayor Price advised that Mr. Hicks had been a strong role model for the Southeast Community and the City of Newport News as a whole, serving many dedicated years on the School Board.

Mayor Price reiterated comments about the World Arts Celebration, scheduled for Saturday, July 16, 2016, 4:00 – 9:00 p.m., at City Center at Oyster Point (735 Town Center Drive). He advised that many diverse cultures would be represented. He encouraged all citizens to attend this spectacular event.

Mayor Price encouraged citizens to join him on Wednesday, July 20, 2016, 7:00 p.m., at the War Memorial Stadium (1889 West Pembroke Avenue, Hampton), when the Peninsula Pilots would host an Alzheimer’s Awareness Night Game. Attendees were asked to wear purple in support of Alzheimer’s awareness.

Mayor Price announced that there would be a Peninsula Walk to End Alzheimer’s, on Saturday, October 15, 2016, 10:00 a.m., in Port Warwick. He encouraged all to join in taking the first step to a world without Alzheimer’s.

Mayor Price reminded there would be no meeting on July 26, 2016. The next Regular Meeting of City Council was scheduled for Tuesday, August 9, 2016, 7:00 p.m.

J. New Business and Councilmember Comments Continued

Councilwoman Scott congratulated and welcomed newly elected Councilman Marcellus L. Harris III to the Newport News City Council. She looked forward to working with him in the North District in an effort to make Newport News “One City.”

Councilwoman Scott extended congratulations to Mr. Everette “Teddy” Hicks on his retirement from the Newport News School Board. She commended him for his many years of service. She also congratulated her son, Mr. Darian Scott, and commended him for his four years of service to the community. She was fondly reminded and encouraged citizens to serve in public office at least once. Serving was rewarding and provided the opportunity to do something that was impactful, not only to the City, but would affect the lives of others. She advised that Darian enjoyed his service on the School Board so much, that he would be back to serve the community in some capacity.

Councilwoman Scott advised that she was also collecting school supplies at the Denbigh Community Center. She stated the 3rd Annual Community Fest Back to School celebration, held in partnership with Restoration Christian Church, Newport News Department of Parks, Recreation, and Tourism, the Denbigh Deltas, and the Newport News-Hampton Continentals was scheduled for Saturday, August 13, 2016, and had drawn over 1,000 each year. School supplies and donations of any size were welcome. She welcomed citizens to contact the City Clerk’s Office for additional information at (757) 926-8634. Former Vice Mayor Robert Coleman was in the dunking tank in 2015. She challenged Reverend Marcellus Harris III to volunteer for the Dunking Tank at the 2016 Back to School Community event.

Councilwoman Scott extended special thanks to Ms. Kate Helwig, Executive Director, Sister Cities of Newport News, Inc., for her leadership with Sister Cities. She advised that the Sister Cities program had turned out to be more than she ever imagined. She encouraged citizens to apply for the slots to travel as a part of a delegation. The trips would prove very rewarding to experience the cultures of other countries. The red carpet was rolled out for each delegation travelling abroad to Neyagawa, Taizhou, or Greifswald, and hopefully, St. Nazaire in France.

Councilwoman Scott announced that the 8th Annual Sister Cities International Breakfast would be held on Friday, July 22, 2016, 8:00 – 9:00 a.m., in the David Student Union Ballroom on the campus of Christopher Newport University (CNU) - 1 University Place. Citizens were welcome to attend, and invited to contact Ms. Kate Helwig at (757) 926-1348 for additional details. She advised that the Annual International Breakfast was the Sister Cities largest fundraiser, and encouraged citizens’ support.

Councilwoman Scott advised that there was no North District Town Hall Meeting during the month of July.

Vice Mayor Vick thanked her colleagues on City Council for their vote of confidence in her leadership by electing her as Vice Mayor.

J. New Business and Councilmember Comments Continued

Vice Mayor Vick congratulated and welcomed newly elected Councilman Marcellus L. Harris III to the Newport News City Council. She stated that she looked forward to working with him.

Vice Mayor Vick thanked the citizens of Newport News that attended the Organizational Meeting as members of the Newport News City Council were sworn in to serve in their new roles for a four-year term. She commended and thanked members of the City staff that helped plan the Organizational Meeting.

Vice Mayor Vick thanked her Pastor, Reverend Rashad Cartwright, Experience Life Church, Hampton, for administering her oath of office.

Vice Mayor Vick suggested that all citizens say special prayers for the City of Newport News, for the Commonwealth of Virginia, and the United States of America, as we experience so much racial unrest. She reminded that the violence was not helping. Individuals must love, rather than shoot and kill one another. She asked that citizens be in prayer for a cease fire so that the violence would cease across the nation.

Councilwoman Woodbury thanked the citizens and her colleagues for their support and well wishes. She stated that she looked forward to continuing to work with the newly elected Councilmember, Reverend Marcellus L. Harris III.

Councilwoman Woodbury shared that great things had happened during the past week, advising that she began with the Flag Raising Ceremony at the Knight of Columbus; on to participate in two parades – the Historic Hilton Village 4th of July Parade on Monday, July 4, 2016, followed by the 50th Annual Brandon Heights Parade. She loved all of the events.

Councilwoman Woodbury felt assured that Newport News, with prayer, would be able to come together to understand and see one another's view, and see it through another's eyes. She stated a lot could happen by stepping into another's place.

K. Adjourn

Mayor Price adjourned the meeting by addressing the citizens. He stated, "May what you say and do uplift the City of Newport News."

THERE BEING NO FURTHER BUSINESS,
ON MOTION, COUNCIL ADJOURNED AT 8:18 P.M.

DRAFT

Page 18
Minutes of Regular Meeting
July 12, 2016

Mabel Washington Jenkins

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor
Presiding Officer

A true copy, teste:

City Clerk

F. Consent Agenda

6. Ordinance Amending City Code, Chapter 6, Animals and Fowl; All Chapters and Sections

ACTION: A REQUEST TO ADOPT AN ORDINANCE AMENDING CITY CODE, CHAPTER 6, ANIMALS AND FOWL; ALL CHAPTERS AND SECTIONS TO BRING INTO ALIGNMENT WITH STATE CODE, MODERNIZE THE TERMINOLOGY THROUGHOUT, AND REVISE THE CHAPTER'S LAYOUT.

BACKGROUND:

- Chapter 6 (Animals and Fowl) of the City's Code of Ordinances has not had a major revision in many years.
- Consequently, many of the existing codes relate back to when the City was appreciably more agricultural in nature and, as such, are no longer relevant.
- Other codes need to be revised to properly align with current State statutes as well as contemporary terminology.
- In addition, the Chapter layout, terminology and definitions need some revision and simplification to improve readability and understanding.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Ord Amdmnt to Chapt 6 Animals & Fowl
sdm14417 Recodification of Chapter 6, Animals and Fowl

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council
FROM: The City Manager
SUBJECT: Ordinance Amendments to City Code, Chapter 6, Animals and Fowl

The Department of Parks, Recreation & Tourism and the City Attorney's Office have been working for the past several years on updating and revising Chapter 6, Animals and Fowl of the City's Code of Ordinances. Many of these sections have not been updated since the City was appreciably more agricultural in layout, while others have not kept pace with newer State statutes or terminology. To this end, staff is recommending the noted amendments to Chapter 6:

- Align City ordinances with relevant State statutes;
- Provide additional Code definitions/descriptions as needed for clarification;
- Modify the overall layout of Chapter 6 and consolidate and update terminology to make the Code easier to read and understand (e.g., "free-roaming" instead of "feral" cats, "wild animals" instead of "animals ferae naturae", etc.);
- Ensure that existing animal policies are accurately reflected by relevant codes; and,
- Eliminate codes and terminology that are no longer relevant given the non-agricultural environment of the City.

The noted revisions to Chapter 6 are supported by the City Attorney and the Director of Parks, Recreation and Tourism.

I recommend approval.


James M. Bourey

JMB:mdp

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6, ANIMALS AND FOWL, OF THE CODE OF THE CITY OF NEWPORT NEWS.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 6, Animals and Fowl, of the Code of the City of Newport News, Virginia, be, and the same hereby is, amended and reordained as follows:

CHAPTER 6

ANIMALS AND FOWL

ARTICLE I. IN GENERAL

Sec. 6-1. Violations of chapter generally.

Except as otherwise provided in other sections of this chapter, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor.

Sec. 6-1.1. Definitions generally.

For the purposes of this chapter, the following words and terms shall have the meaning respectively ascribed to them:

Abandon means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in section 6-62 for a period of five consecutive days.

Adequate care or care means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

Adequate exercise or exercise means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

Adequate feed means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate shelter means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Adequate space means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

Adequate water means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Adoption means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

Agricultural animals means all livestock and poultry.

Ambient temperature means the temperature surrounding the animal.

Animal means any nonhuman vertebrate species except fish. For the purposes of section 6-58, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

Animal control officer means a person appointed as an animal control officer or deputy animal control officer.

Aquaculture facility means any land, structure, or other appurtenance that is used for aquaculture, including any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.

Boarding establishment means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

Collar means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

Commercial dog breeder means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

Companion animal means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Consumer means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

Dealer means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of

business as a common carrier or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

Direct and immediate threat means any clear and imminent danger to an animal's health, safety or life.

Dump means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

Emergency veterinary treatment means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

Enclosure means a structure used to house or restrict animals from running at large.

Euthanasia means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

Exhibitor means any person who has animals for or on public display, excluding an exhibitor licensed by the U. S. Department of Agriculture.

Facility means a building or portion thereof as designed by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

Farming activity means consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

Foster care provider means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

Foster home means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization or rehabilitation is provided for companion animals.

Groomer means any person who, for a fee, cleans, trims, brushes, makes neat, manicures,

or treats any animal for external parasites.

Home-based rescue means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

Humane means any action taken in consideration of and with the intent to provide for the animals health and well-being.

Humane investigator means a person who has been appointed by a circuit court as a humane investigator.

Humane society means any incorporated, nonprofit organization that is organized for the purpose of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

Immediate control means restrained either by leash, cord or chain, not exceeding eight (8) feet in length or under voice control of the owner.

Incorporated means organized and maintained as a legal entity in the Commonwealth.

Kennel means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

Law enforcement officer means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

Livestock includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

Ordinance means any law, rule, regulation or ordinance adopted by the governing body of any locality.

Other officer includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

Owner means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

Pet shop means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

Poultry includes all domestic fowl and game birds raised in captivity.

Primary enclosure means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

Private animal shelter means a facility that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.

Properly cleaned means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

Properly lighted when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

Properly lighted when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

Public animal shelter means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

Releasing agency means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

Research facility means any place, laboratory, or institution licensed by the U.S.

Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

Sanitize means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

Service animal means a dog trained to accompany its owner with a disability for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

Shelter means both public animal shelters and private animal shelters as defined herein.

Sore means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by the Code of Federal Regulations (9 C.F.R. Part 11.2.)

Sterilize or *sterilization* means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

Treasurer includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

Treatment or *adequate treatment* means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

Vertebrate means any animal that has a backbone or spinal column.

Veterinary treatment means treatment by or on the order of a duly licensed veterinarian.

Weaned means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species and has ingested such food, without nursing, for a period of at least five (5) days.

Wild animal means any animal except those defined as companion animals, livestock or poultry.

Sec. 6-2. Location and maintenance of poultry and animal yards.

(a) It shall be unlawful for any person to maintain in the city any poultry or animal yard within one hundred seventy-five (175) feet of any buildings used for residential purposes, or within two hundred fifty (250) feet of any church or school building; provided, however, that the person maintaining such a yard may do so within one hundred seventy-five (175) feet of such person's own personal residence, and further provided, that this subsection shall not apply to the keeping of pigeons.

(b) Notwithstanding the requirements contained in subsection (a) above, keeping up to six (6) chickens shall be allowed under the following conditions:

- (1) Chickens shall be kept and raised for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed;
- (2) No roosters shall be allowed;
- (3) Chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides sun, shade, protection from the elements and is designed to be easily accessed and cleaned;
- (4) All pens, coops or cages shall be located in the rear yard only;
- (5) Pens, coops or cages shall be situated at least twenty-five (25) feet from adjoining property lines;
- (6) Pens, coops or cages shall be kept in a neat and sanitary condition at all times. No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property;
- (7) All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals; and
- (8) Any person desiring to keep chickens pursuant to this subsection shall obtain a permit to do so from the Department of Codes Compliance for a fee of twenty-five dollars (\$25.00).

(c) For the purpose of this section, the term "poultry or animal yard" shall include every yard, pasture, enclosure, shed or structure used to house:

(1) Live fowl, including in the term "fowl" chickens, ducks, geese and other poultry, except as provided otherwise herein; or

(2) One or more of the following animals: Cattle, horses, sheep, goats or other domestic animals, other than cats or dogs.

(d) Every person maintaining a poultry or animal yard shall keep the same clean and sanitary, and free from all refuse, decaying food and excrement.

(e) Every poultry or animal yard, except when located in an area zoned agricultural under any existing zoning ordinance, shall be adequately enclosed and free from any rodents. The presence of any rodent in any poultry or animal yard shall be prima facie evidence that such yard is maintained in violation of this section.

(f) Nothing contained in this section shall be construed to authorize the keeping of animals of any kind at any place, irrespective of distances from any buildings, when the keeping of such animals is prohibited by any other ordinance. Conversely, nothing in this section shall be construed to prohibit the keeping of animals of any kind at any place, irrespective of distances from any buildings, when the keeping of such animals is permitted by any other ordinance.

Sec. 6-3. Maintenance of cow stables.

~~The maintenance of cow stables or other conveniences for the home use of milk or for the purpose of carrying on a dairy business within the city shall be exercised only under the supervision of the health officer, who may condemn the same as a nuisance if not kept in a cleanly manner. Upon such condemnation, such stable or convenience shall be vacated and shall not again be used for dairy purposes, without permission from the health officer.~~ The maintenance of cow stables shall be prohibited within city limits.

Sec. 6-4. Removal of manure at stables and stockyards.

(a) ~~The word "stable," wherever used in this section, shall mean any building in the city used or intended to be used for housing one (1) or more horses, mules, cows or cattle. The word "premises," wherever used in this section, shall be taken to mean the land used in connection with any stable.~~

(b) ~~All manure shall be removed from all stables and~~ The premises or placed in a watertight and flyproof pit or bin at least once a week from April first to November first, shall be

properly cleaned and at all times ~~all stables and the~~ premises shall be kept in such condition as not to become a nuisance by the breeding of flies or a menace to public health, and the escape of any disagreeable odor therefrom shall be prevented, so far as possible.

(c) All manure shall be removed from all stockyards as often as may be necessary to prevent their becoming a nuisance by the breeding of flies, or becoming otherwise a menace to public health.

Sec. 6-5. ~~Maintenance of premises where fowl are kept~~Reserved.

~~It shall be unlawful for any person to permit any building or any other premises in or on which chickens or other domestic fowl are kept to become a nuisance by reason of any offensive odors or unsanitary conditions.~~

Sec. 6-6. Livestock running at large.

(a) No person shall permit any livestock owned or controlled by such person to run at large within the city limits.

(b) Any ~~animal~~livestock found running at large in violation of this section shall be taken up by the ~~dog warden~~animal control officer or ~~any police~~other officer and impounded at a place provided by the city for such purpose. Such animal shall be held for a period of five (5) days, during which time the owner may redeem the animal, by proving ownership and paying the costs incurred by the city in impounding and caring for such animal. Such costs shall be established by the city manager, but in no event shall they be less than those established by section 6-25(b)(2) for impounded dogs. Such costs shall be paid to the person in charge of the place of impoundment and then turned over to the city treasurer who shall report the same to the auditor at the end of the month.

(c) If an animal is not redeemed by its owner in accord with subsection (b) above, it shall be sold to the highest bidder, after five (5) days' notice of sale posted at the courthouse door and two (2) other conspicuous places in the city. The proceeds of such sale shall be paid to the city treasurer and reported to the auditor at the end of the month.

(d) Neither the impoundment or the sale of any animal under this section shall relieve any person from the payment of any fine imposed for allowing the animal to run at large in the city.

Authority of city to prohibit and impound animals running at large, Code of Virginia, § ~~1-796.94-1~~3.2-6544.

Sec. 6-7. ~~Fowl~~Poultry running at large.

(a) It shall be unlawful for the owner of ~~any chickens or other fowl~~poultry to permit, fail to prevent or allow them to range, ~~and fly or~~ run at large on or in the streets, parks, squares or other public property of the city.

(b) It shall be deemed a trespass on the part of the owner of ~~chickens or other fowl~~the poultry to permit or allow them to range or run on the lands or property of another, without such other's consent or permission, and the owner thereof shall be liable for any damage done by such chickens or other fowl while on the property of another.

Authority of city to prohibit the running at large of fowl, Code of Virginia, § ~~3.1-796.94~~3.2-6544.

Sec. 6-8. Keeping of wild animals or unconfined pigeons regulated.

(a) It shall be unlawful for any person to maintain any ~~nondomestic animal or animals~~ ferae naturae of any type ~~whatsoever~~wild animal within the city limits, except as herein provided. The term ferae naturae shall mean animals which, by nature, are wild, as opposed to those animals which are naturally tame. It shall also be unlawful to maintain pigeons within the city limits which are at large and not under the control of the owner.

(b) Wild animals may be kept in proper enclosures for public display as an accessory use to a public or private park, animal shelter, or nature related educational facility; provided, however, such park or facility is owned and operated by a governmental body or a nonprofit organization; and further provided, that such park or facility occupies a land area of not less than two (2.0) acres.

(c) ~~Nondomestic animals or animals~~ ferae naturae Wild animals may be kept in the city by any person licensed as a wildlife rehabilitator by the Commonwealth of Virginia. No such wildlife rehabilitator shall keep more than four (4) such animals, unless such animals are from the same litter, at any one (1) time; nor shall any such animal be kept by a wildlife rehabilitator for more than one hundred twenty (120) days or until the animal is returned to health sufficient for its return to the wild, which ever is shorter.

Sec. 6-9. ~~Noisy animals or birds~~Reserved.

~~Any person who shall own, allow, permit, keep or harbor, on or about any premises, any ani-mal(s) or bird(s) which creates sound (i) that is plainly audible across property boundaries or inside the confines of the dwelling unit, house or apartment of another person between the hours of 10:00 p.m. and 8:00 a.m.; (ii) that is plainly audible inside the confines of the dwelling unit, house or apartment of another person at least once a minute for ten (10) consecutive minutes; (iii)~~

~~that is plainly audible at fifty (50) or more feet from the animal(s) or bird(s) between the hours of 10:00 p.m. and 8:00 a.m.; or (iv) that is plainly audible at fifty (50) or more feet from the animal(s) or bird(s) at least once a minute for ten (10) consecutive minutes, shall be deemed to have caused or permitted a public nuisance, which is unlawful, and shall be guilty of a Class 4 misdemeanor for each occurrence the nuisance may continue, after due notice has been given to remove, correct or abate the same.~~

~~Nuisances generally, § 28-35.~~

Sec. 6-10. Disposal of dead animals generally.

(a) ~~The owner or occupant of the premises upon which of any dead horse or dead hog, cow or other cattle~~animal is found ~~not killed for human food,~~ shall bury or otherwise dispose of it so that the same shall not become offensive to the inhabitants of any part of the city or of the suburbs thereof, within ~~twelve (12) hours after the death of any such animal, if such death shall occur in the months of November, December, January, February or March, and within eight (8) hours after the death of any such animal; if such death shall occur in the months of April, May, June, July, August, September or October;~~ provided, however, that the period between 6:00 p.m. and 6:00 a.m. of the next succeeding day shall not be taken into consideration in computing such time. During the whole period from the death of any such animal to the time of the disposal of its body, while in any street, lane or public alley, it shall be, by the owner thereof, kept entirely covered or otherwise hidden from view. No such dead animal shall be dragged or carried through or along any street or alley, except when so carried as to prevent the exposure to view of the same or any part thereof. In the event the owner of a deceased animal fails to dispose of it, as required by this subsection, the city manager or the manager's designee shall have authority to dispose of such carcass at the expense of the owner.

~~(b) — Dead animals, other than dogs and those mentioned in subsection (a) above, shall be disposed by the owner or occupant of the premises upon which they are found, by depositing them in the receptacles provided for in Chapter 19 of this Code.~~

Allowing dead animal to remain unburied, Code of Virginia, § 18.2-323; responsibility of owner, Code of Virginia, § 18.2-510.

Sec. 6-11. Depositing dead animal on street or sidewalk or allowing it to remain unburied.

If any person casts or otherwise deposits any dead animal into a road, alley, or sidewalk, or knowingly permits any dead animal to remain unburied upon his or her property, when offensive to the public, such person shall be guilty of a Class 3 misdemeanor.

Similar provisions, Code of Virginia, § 18.2-323.

Sec. 6-12. Sterilization of dogs and cats obtained from ~~pound or~~ any animal shelter.

(a) Every person residing in the city receiving a dog or cat placed to or with such person by any animal shelter ~~or pound~~ located in the city or receiving funding of any kind from the city shall, within thirty (30) days of receiving such dog or cat, or in the case of a ~~female~~ dog or cat less than six (6) months old ~~or a male dog or cat less than ten (10) months old~~, within thirty (30) days of the earliest date determined by the placing shelter ~~or pound~~ as safe for sterilization of such dog or cat, have such dog or cat spayed or neutered by a duly licensed veterinarian. ~~Every person violating this subsection shall be subject to a fine of twenty-five dollars (\$25.00), plus two dollars (\$2.00) per day for each day such violation continues up to a maximum total fine of one hundred dollars (\$100.00); and the pound~~ Each day such animal is allowed to go unsterilized shall be considered a separate offense. Second and subsequent violations shall constitute a Class 3 misdemeanor; and the animal shelter utilized by the city may additionally revoke the placement and take possession of the unsterilized dog or cat.

(b) Every animal shelter ~~or pound~~ located in the city or receiving funding of any kind from the city shall furnish every person residing in the city with whom a dog or cat is placed, at the time of placement, a form approved by the animal ~~warden~~ control officer, which shall contain or recite the following:

- (1) The name and address of the person with whom the dog or cat is placed.
- (2) The name and address of the shelter ~~or pound~~ making the placement.
- (3) A description sufficient for identification of the dog or cat placed.
- (4) The date of placement.
- (5) In the case of a female dog or cat less than six (6) months old or male dog or cat less than ten (10) months old, the earliest date upon which sterilization is determined to be safe for such dog or cat.
- (6) A recitation of the responsibility under this section of the person receiving placement for the sterilization of the dog or cat.
- (7) A recitation of the responsibility of the person receiving placement of reporting the sterilization of the dog or cat.
- (8) An acknowledgment that the placed dog or cat has been spayed or neutered, along with a signature and date line for signature by a duly licensed veterinarian who performs the sterilization procedure.
- (9) The name and address of the ~~pound then utilized by the city~~ public animal shelter.

Any placement facility not complying with this subsection shall be subject to a fine of fifteen dollars (\$15.00) for each violation.

(c) Every person residing in the city receiving a dog or cat placed with such person by an animal shelter ~~or pound~~ located in the city or receiving funding of any kind from the city shall have the form provided to him pursuant to subsection (b) above signed and dated by the fully licensed veterinarian neutering or spaying such dog or cat and shall file such form with the pound being utilized by the city, within thirty-seven (37) days of the date he received the animal, or in the case of a female dog or cat less than six (6) months old or a male dog or cat less than ten (10) months old, within thirty-seven (37) days of the date designated upon which sterilization may first be safely performed. Any person violating this subsection shall be subject to a fine of ten dollars (\$10.00).

Sec. 6-13. Animal traps.

(a) The Animal Services Division shall maintain an inventory of various-sized live animal traps, which may be made available to the citizens of Newport News. The Director of Parks, Recreation and Tourism shall set a deposit and usage fee for the use of any animal trap.

(b) When a trap is destroyed, lost or damaged, those persons responsible for the trap shall reimburse the city for the full cost of the repair or replacement of the trap.

(c) Prior to utilizing any trap set for the capture of any wild or fur bearing animal, the person acquiring such trap must first present any required permit issued by the Virginia Department of Game and Inland Fisheries pursuant to Virginia Code, §29-300.1, as amended.

(d) No person may interfere with the lawful use of an animal trap. Tampering shall include, releasing any animal contained therein, damaging or otherwise preventing proper operation of the trap, and removal/relocation of the trap. This subsection will not apply to the animal control officer, the director of public health or his designee, any city employee dealing with a trap placed upon city property without the consent of the city, or a state or federal game warden.

Sec. 6-14. Keeping and display of reptiles.

(a) It shall be unlawful for the owner or keeper of any reptile or type of reptile not native to the Commonwealth of Virginia, to keep the reptile in any manner that will permit its escape or to knowingly permit the reptile to run at large.

(b) The owner of any reptile found running at large shall pay a fee to cover the actual cost in locating and capturing or otherwise disposing of the reptile.

(c) It shall be unlawful for any person to carry or wear any live snake or reptile in public unless such snake or reptile is securely placed in an acceptable animal carrier so as to prevent escape or injury to the snake or reptile, another animal or human being.

~~Secs. 6-1315—6-21. Reserved.~~

ARTICLE II. DOGS AND CATS GENERALLY

DIVISION 1. GENERALLY

Sec. 6-22. Definitions.

~~For the purposes of this article, the following words and terms shall have the meaning respectively ascribed to them by this section:~~

~~*At large.* "At large" shall mean any dog or cat which is roaming, running or self-hunting off the property of its owner or custodian, and not under its owner's or custodian's immediate control.~~

~~*Cat.* "Cat" shall include both the male and female sex of the feline species and unsexed males and females. A cat is an animal.~~

~~*Dangerous dog.* "Dangerous dog" shall mean a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal or killed a companion animal; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.~~

~~*Dangerous propensity.* "Dangerous propensity" shall mean and include: any propensity or tendency of any dog to injure persons or domestic animals, whether the dog acted out of anger or playfulness, and such definition is not confined to a disposition on the part of the dog to attack every person it might meet but includes as well a natural fierceness or disposition to mischief as might occasionally lead the dog to attack human beings without provocation. This definition is not limited to the type of malignancy exhibited by a biting dog.~~

~~*Dog.* "Dog" shall include both the male and female sex of the canine species and unsexed males and females. A dog is an animal.~~

~~*Dog pound or pound.* "Dog pound" or "pound" shall mean the premises maintained for~~

~~impounding or caring for animals taken up pursuant to the provisions of this article.
Immediate control.~~

~~Immediate control. "Immediate control" shall mean restrained either by a leash, cord or chain, not exceeding eight (8) feet in length or under voice control of the owner.~~

~~—— Livestock. "Livestock" includes cattle, horses, sheep, goats, swine and enclosed domesticated rabbits or hares.~~

~~—— Other officer. "Other officer" includes all persons employed by the city, whose duty it is to preserve the peace, to make arrests or to enforce the law.~~

~~—— Own. The word "own" means having a right of property in a dog or cat or keeping or harboring a dog or cat, or having a dog or cat in one's care, or acting as the custodian of a dog or cat, or permitting a dog or cat to remain on or about ones' premises.~~

~~—— Owner. "Owner" includes any person having a right of property in a dog or cat, or any person who keeps or harbors a dog or cat, or has a dog or cat in his or her care, or who acts as the custodian of a dog or cat, or any person who permits a dog or cat to remain on or about any premises occupied by him or her.~~

~~—— Person. "Person" shall mean any owner or other person, firm, corporation or other legal entity having a possessory property right in any dog, cat or other animal or who harbors, cares for, exercises control over, or knowingly permits any dog, cat or other animal to remain on premises occupied by them.~~

~~—— Poultry. "Poultry" includes all domestic fowl and game birds raised in captivity.~~

~~—— Unlicensed dog or cat. "Unlicensed dog or cat" shall mean any dog or cat over four (4) months of age without a license tag displayed, except that dogs will not be considered unlicensed, when engaged in lawful hunting, in open season when accompanied by the owner or custodian, with its collar and tag temporarily removed.~~

~~—— Vicious dog means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.~~

Sec. 6-23. Animal control officer and pound animal shelter generally.

- (a) The city manager shall ~~appoint~~employ an officer to be known as the "animal control

officer", who shall have the power to enforce this chapter and other ordinances and state laws for the protection of domestic animals. ~~The animal control officer may also be referred to in other sections of Chapter 6 as the "animal warden" or "dog warden".~~ Within the limits of the appropriations therefor, the city manager may also ~~appoint~~employ one (1) or more deputy animal control officers to assist the animal control officer in animal inspection activities and in animal law enforcement.

(b) A ~~pound~~public animal shelter shall be established and maintained in the city in accordance with the requirements deemed necessary by the city council and ~~Section 3.1-796.96~~§3.2-6546 of the Code of Virginia, 1950, as amended, and of a type approved by the ~~health department~~State Veterinarian. The city need not own such ~~pound~~public animal shelter but may contract for its establishment with a private group or in conjunction with one (1) or more other local political subdivisions of the state.

(c) The ~~pound~~public animal shelter provided for in this section shall be accessible to the public at reasonable hours during the week.

(d) The city manager may, subject to the approval of city council, contract with a society for the prevention of cruelty to animals or some other qualified entity to provide animal control and/or ~~pound~~public animal shelter services.

Sec. 6-24. Dogs and cats deemed personal property; rights relating thereto.

All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of any such dogs or cats, or injury thereto, or unlawful detention or use thereof, as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person. The animal control officer or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to law, shall have authority to seize and hold such dog or cat pending action before the general district court or other court. If no such action is instituted within seven (7) days, the animal control officer or other officer shall deliver the dog or cat to its owner. The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of such premises and the animal control officer or other officer may take such dog in charge and notify its legal owner to remove the dog or cat. The legal owner of the dog or cat shall pay a reasonable charge for the keep of such dog or cat while in the possession of the animal control officer, ~~such charge not to exceed that prescribed in section 6-25(b).~~

Sec. 6-25. Running at large; disposal of impounded animals.

(a) ~~It shall be unlawful for any person to permit any dog owned or kept by him or her to run or go at large within the city, whether such dog is licensed or not.~~ It shall be unlawful for the owner, custodian or other person in charge or control of any dog to permit or allow such animal to be at large within the city limits or to negligently fail to prevent such animal from being at large within the city limits. If a dog attacks a person or another companion animal while at large, the owner shall be guilty of a Class 2 misdemeanor. Section 29-50 requires dogs be leashed in public parks.

(b) It shall be unlawful for any person to permit any cat owned or kept by him or her to run or go at large within the city unless said cat is spayed or neutered; this provision shall not apply to kittens who are less than six (6) months of age.

(c) ~~It shall be the duty of the animal control officer or other officer who may find any dog that is running at large or any cat as identified in paragraph (b) above that is running at large to forthwith take said animal into custody. The animal control officer or other officer may also impound any other stray or feral animal that he finds. If a dog or cat is found without the license required by this Article, it shall be presumed that the dog or cat is stray or feral, unless the animal control officer or other officer has reason to know that it is not stray or feral. The animal control officer shall deal with and may dispose of any impounded animal in the following manner:~~

~~————The animal shall be impounded in the pound for a period of at least five (5) days. If the owner or keeper is known, or if such animal has upon it the name and address of the owner, and the owner thereof can be reasonably ascertained, then such owner shall be notified within twenty-four (24) hours after such seizure. In all cases the owner may, upon proof of ownership redeem the animal within five (5) days after such seizure upon payment of the sum of twenty dollars (\$20.00) for the first twenty-four (24) hours or portion thereof and the sum of five dollars (\$5.00) for each succeeding day or fraction thereof; provided however, that the minimum payment shall be twenty dollars (\$20.00). For each subsequent impoundment, within a twelve-month period, the owner may redeem the animal within five (5) days of seizure upon payment of the sum of twenty-five dollars (\$25.00) for the first twenty-four (24) hours or portion thereof and the sum of five dollars (\$5.00) for each succeeding day or fraction thereof; provided, however, that the minimum payment in such cases shall be twenty-five dollars (\$25.00).~~

~~————If at the end of such five (5) days such animal shall not have been redeemed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state or a licensed federal dealer, or by delivery to any local humane society or shelter for placement with any person who is a resident of the city and who will pay the cost herein prescribed and the required license fee, if any, on such animal. No provision herein shall prohibit the destruction of a critically injured or critically ill animal for humane purposes.~~ It shall be the duty of the animal control officer or other officer who may find any dog that is running at large or any cat as identified in paragraph (b) above that is running at large to forthwith take said animal into custody. If the owner or keeper is known, or if such animal has upon it the name and address of the owner, and the owner thereof can be reasonably ascertained,

then such owner shall be notified within forty-eight (48) hours after such impound.

(d) The animal control officer or other officer may also impound any other stray or feral animal that he finds. If a dog or cat is found without the license required by this Article, it shall be presumed that the dog or cat is stray or feral, unless the animal control officer or other officer has reason to know that it is not stray or feral.

(e) The animal shall be impounded in the public animal shelter, or other appropriate holding facility for a period of at least five (5) days, such period to commence on the day immediately following the day the animal is initially confined in the facility. An animal bearing a collar, tag, license, tattoo or other form of identification shall be held for an additional five (5) days. The owner may, upon proof of ownership redeem the animal immediately.

(f) Any person claiming to be the owner of an impounded animal shall provide adequate proof of ownership prior to redeeming the animal. Proof of ownership shall consist of a current city license, veterinary documentation, bills of sale or other adequate documentation. It shall be unlawful for any person to present false evidence of ownership in order to redeem or gain possession of an impounded animal. Violations of this subsection shall constitute a Class 1 misdemeanor.

(g) If at the end of such period as described in subsection (e) such animal shall not have been redeemed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state or a licensed federal dealer, or any approved animal rescue agency or organization. No provision herein shall prohibit the destruction of a critically injured or critically ill animal for humane purposes.

(h) Nothing in this section shall prohibit the immediate euthanasia or disposal by the methods listed in subdivisions 1 through 5 of subsection D of Section 3.2-6546 of the Code of Virginia, 1950, as amended, an animal that has been released by the animal's rightful owner after the rightful owner has read and signed a statement: (i) surrendering all property rights in such animal; (ii) stating that no other person has a right of property in the animal; and (iii) acknowledging that the animal may be immediately euthanized or disposed of in accordance with subdivisions 1 through 5 of subsection D of Section 3.2-6546 of the Code of Virginia, 1950, as amended.

(i) This section does not apply to law enforcement animals engaged in the performance of their duties or to animals confined within an area of public property designated by the director of parks, recreation and tourism or private property designated by the owner for having animals off leash.

Sec. 6-25.1. Removal of dog excrement required; exceptions.

It shall be unlawful for any person owning, keeping or having custody or control of a dog to fail to remove immediately the dog's excrement from any public or private property other than property owned or occupied by the person owning, keeping or having custody or control of said dog. Any person who shall violate this section shall be guilty of a Class 4 misdemeanor. The provisions of this section shall not apply to ~~seeing-eye dogs used by blind persons~~ service animals where the owner is unable to remove the excrement due to their disability or to dogs used by police officers for law enforcement or tracking purposes.

Sec. 6-26. ~~Dogs killing or injuring livestock or poultry~~ Reserved.

~~———— (a) ——— It shall be the duty of the animal control officer or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith, whether such dog bears a license tag or not, and any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing livestock or poultry for the third time shall be considered a confirmed killer. Any person, including the animal control officer, who has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section shall apply to a magistrate of the city, who shall issue a warrant requiring the owner or custodian of the dog, if known, to appear before a district court, at a time and place named therein, at which time evidence shall be heard, and if it shall appear that such dog is a livestock or poultry killer, or has committed any of the depredations mentioned in this section, the dog shall be ordered killed immediately, which the animal control officer, or other officer designated by the judge of the district court to act, shall do.~~

~~———— (b) ——— Any person who has any livestock or poultry killed or injured by any dog not his or her own shall be entitled to receive from the city, as compensation, the fair market value of such livestock or poultry; provided that:~~

~~———— (1) ——— The claimant has furnished evidence, within sixty (60) days of discovery, of the quantity and value of the dead or injured livestock or poultry and the reasons the claimant believes that death or injury was caused by a dog;~~

~~———— (2) ——— The animal control officer or other officer shall have been notified of the incident within seventy-two (72) hours of its discovery; and~~

~~———— (3) ——— The claimant first has exhausted his or her legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. "Exhausted" shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.~~

~~———— (c) ——— The city council may waive the requirements of paragraph (2) or (3) of subsection~~

~~(b), or both, provided the animal control officer has conducted an investigation and his investigation supports the claim.~~

~~————(d)———— If there are not sufficient moneys in the dog fund to pay claims under this section, they shall be paid in the order they are received when moneys become available. Upon payment under this section, the council shall be subrogated, to the extent of compensation paid, to the right of action of the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.~~

~~————(e)———— It shall constitute a Class 1 misdemeanor for any person to present a false claim or to receive money on a false claim under the provisions of this section.~~

Sec. 6-27. Disposal of dead dogs and cats Reserved.

~~The owner of any dog or cat which has died from disease or other cause shall forthwith cremate or bury the same. If, after notice, any owner fails to do so, the animal control officer or other officer shall bury or cremate the dog or cat and may recover, on behalf of the city, from the owner the cost for this service.~~

Sec. 6-28. Reserved.

Editor's note—

Ord. No. 4073-90, adopted July 10, 1990, repealed § 6-28, which pertained to vicious or dangerous animals and derived from Ord. No. 2521-79.

Sec. 6-29. Female dogs in heat.

~~No person shall permit any female dog in heat to go at large in the streets or allow such female dog to remain on his premises to the annoyance of the neighborhood. Any such dog shall be confined in accordance with section 6-62 to a building, pen, fenced area or other structure built to prevent the escape of such dog and prevent the intrusion of any other dog. It shall be unlawful to tether a female dog in heat. The owner of any female dog violating this section, upon conviction thereof, shall be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00); and Each day such animal is allowed to go at large in the streets or remain improperly confined as described above, if the owner shall allow her to remain in his premises to the annoyance of the neighborhood shall be considered a separate offense. Second and subsequent violations shall constitute a Class 3 misdemeanor.~~

Sec. 6-30. ~~Guilt of owner, etc., as affecting disposition of dogs, failure of owner, etc., to know dog is vicious.~~

~~—— The finding of the court as to the guilt of the owner or keeper of the dog under the provisions of this article shall not be construed in any way to affect the decision of the court as to the disposal of the dog in cases where he may consider such disposal advisable. Where a dog is vicious or dangerous without the knowledge of the owner, the court may order the dog destroyed without penalizing the owner.~~

~~Sec. 6-31. Kennels for more than fifty (50) dogs.~~

~~—— No kennel for more than fifty (50) dogs shall be permitted in the city.~~

~~Sec. 6-32. Fees.~~

~~—— (a) —— The division of animal services may provide box traps for use by residents of the city to trap unwanted cats and dogs on their private property.~~

~~—— (b) —— The box traps shall be and remain property of the city, however residents renting such traps shall be responsible for the care of such traps during the rental period, and the return of such traps in good working order, normal wear and tear excepted, at the end of the rental period.~~

~~—— (c) —— The rental fee for each box trap shall be one dollar (\$1.00) per calendar day, and shall be payable to the City of Newport News, Virginia.~~

Secs. 6-30–6-32. Reserved.

DIVISION 2. LICENSE

Sec. 6-33. License required.

It shall be unlawful for any person to own a dog or cat four (4) months old or older in this city, unless such dog or cat is licensed under the provisions of this division. Each day such animal is allowed to go unlicensed shall be considered a separate offense. Second and subsequent violations shall constitute a Class 3 misdemeanor.

Sec. 6-34. Application; applicant must be city resident.

(a) Any person may obtain a dog or cat license by making oral or written application to the city treasurer, accompanied by the license tax and evidence of vaccination required by this

division. The city treasurer shall only have authority to license dogs and cats of resident owners or custodians who reside within the limits of the city and may require information to this effect from any applicant.

(b) It shall be unlawful for any person to make any false statement in or present any false evidence with an application submitted under this section, in order to secure a dog or cat license to which such person is not entitled.

Sec. 6-35. Tax imposed (other than kennel operations).

(a) A license tax is hereby imposed on dogs and cats required to be licensed under this division in the following amounts:

- (1) Unsexed dogs and cats (neutered or spayed) . . . \$5.00
- (2) Male or female dogs and cats . . . 10.00
- (3) Dangerous or vicious dogs . . . 50.00

(b) No license tax shall be levied under this section on any dog that is trained and serves as a guide dog or aid dog for ~~athe blind or otherwise handicapped person~~ visually impaired, a hearing dog for a deaf or hearing impaired person or that is trained and serves as a service dog for a mobility impaired person.

(c) A written veterinarian's certification showing that a dog or cat has been spayed or neutered shall be presented at the time of purchase of the license when the lower tax is applied for. Said certificate shall show the species, breed, name, age, and color of said animal and name, address, and signature of a licensed veterinarian. If such certification is not so presented, the dog or cat shall be taxed the fee levied on unneutered and unspayed dogs or cats.

(d) Any person giving false information in the procurement of a dog, cat or kennel license shall be deemed guilty of a Class 1 misdemeanor.

~~Sec. 6-35.1. Tax imposed on kennel operations and dogs kept or housed at kennel operations.~~

~~(a) For the purposes of this section, "kennel operations" shall be defined as a location at which an owner of more than four (4) dogs keeps or houses these animals.~~

~~(b) A license tax is hereby imposed on kennel operations as defined herein in the amount of ten dollars (\$10.00).~~

~~_____ (c) _____ A license tax is hereby imposed in the amount of one dollar (\$1.00) for each dog housed or kept at a kennel operation.~~

Sec. 6-35.1. Concealing a dog or cat.

It shall be a Class 4 misdemeanor for any person to conceal or harbor any dog or cat on which any required license tax has not been paid.

Sec. 6-36. When tax due and payable.

The license tax imposed on dogs and cats by sections 6-35 and 6-35.1 shall be due and payable as follows:

- (1) On or before January first and not later than January thirty-first of each year, the owner of any dog four (4) months or older shall pay such tax.
- (2) If a dog shall become four (4) months of age or come into the possession of any person between January first and November first of any year, the license tax for the current calendar year shall be paid forthwith by the owner.
- (3) If a dog shall become four (4) months of age or come into the possession of any person between October thirty-first and December thirty-first of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner, and such license shall protect such dog from the date of purchase.

Sec. 6-37. Failure to pay tax when due.

It shall be unlawful for any person to fail to pay the dog or cat license tax when the same is due. Payment of the license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided for such failure.

Sec. 6-38. Disposition of taxes; records and reports of city treasurer.

(a) The city treasurer shall deposit all money collected for dog and cat license taxes in a separate account from which the city may use this money annually for any and all of the purposes identified in Section 3.1-796.101 of the Code of Virginia, 1950, as amended.

(b) The treasurer shall enter, in a dog and cat license sales record, the date of the sale

of dog and cat tags, the names and addresses of persons to whom sold, and the serial number and shall keep an account of the amount of the license tax paid. The treasurer shall keep a copy of such dog and cat license sales record in numerical order and at the close of the fiscal year file an annual report of such sales with the city manager and the city auditor; and the city auditor shall audit such records, accounts and unsold dog and cat license tags and authorize the treasurer to destroy unsold tags.

Sec. 6-39. Issuance, composition and contents of license.

(a) Upon receipt of a proper application and the prescribed license fee, the city treasurer shall issue a dog or cat license; provided, that no such license shall be issued for any dog or cat, unless there is presented to the city treasurer evidence satisfactory to the treasurer that the owner has complied with section 6-88 with respect to such dog or cat.

(b) Each dog or cat license shall consist of a license tax receipt and a ~~metal~~city approved tag. Such receipt shall have recorded thereon the amount of the tax paid, the name and address of the owner or custodian of the dog, the date of payment, the year for which the license is issued, the serial number of the tag, and whether the license is for a male, female or unsexed dog or cat. The ~~metal~~ tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the city, ~~the sex of the dog or cat~~ and the calendar year for which issued and shall bear a serial number.

Sec. 6-40. Preservation and exhibition of license receipt; tag to be worn by dog or cat; exceptions.

(a) Dog and cat license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by the animal control officer or other officer. Dog and cat license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog or cat. The owner of the dog or cat may remove the collar and license tag required by this section when the dog or cat is engaged in lawful hunting; when the dog or cat is competing in a dog or cat show; when the dog or cat has a skin condition which would be exacerbated by the wearing of a collar and the owner possesses a written veterinarian's diagnoses of the condition; when the dog or cat is confined; or when the dog or cat is under the immediate control of its owner.

(b) Any dog or cat not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed, and in any proceedings under this division, the burden of proof of the fact that such dog or cat has been licensed or is otherwise not required to bear a tag at the time shall be on the owner of the dog or cat.

Sec. 6-41. Removal of tag.

It shall be unlawful for any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat.

Sec. 6-42. Duplicate tags.

If a dog or cat license tag shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the city treasurer for a duplicate tag, presenting the original license receipt. Upon affidavit of the owner or custodian, before the treasurer, that the original license tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog or cat. The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog or cat shall be one dollar (\$1.00).

Sec. 6-43. Substations and agents for collection of tax and issuance of license.

The city treasurer may establish substations in convenient locations in the city and appoint agents for the collection of dog and cat license taxes and issuance of dog and cat licenses.

Sec. 6-44. Reserved.

DIVISION 3. DANGEROUS OR VICIOUS DOGS

Sec. 6-45. ~~Dangerous or vicious dogs to be confined~~Reserved.

~~No person shall suffer or permit any dangerous or vicious dog to be unconfined. For the purposes of this section, a dangerous or vicious dog is unconfined if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner or other person having custody or control of such dog. If such pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot.~~

Sec. 6-46. ~~Dangerous or vicious dog off premises~~Reserved.

~~No person shall suffer or permit a dangerous or vicious dog to go beyond the premises of such person unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision~~

~~or respiration but must prevent it from biting any person or animal.~~

Sec. 6-47. ~~Applicability to adult dogs only~~Reserved.

~~The provisions of this article shall apply to adult dogs only, which shall mean any dog over the age of six (6) months.~~

Sec. 6-48. Certain acts prohibited.

No person shall own, harbor, care for, keep or utilize any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purposes of causing or encouraging said dog to make unprovoked attacks upon human beings or domestic animals.

Sec. 6-49. Sales of dangerous or vicious dogs prohibited.

No person shall possess with intent to sell, or offer for sale, sell, breed, or buy or attempt to buy within the city any dangerous or vicious dog.

Sec. 6-50. Dangerous or vicious dog determination hearing; appeal; license; notification of change in status.

(a) As used in this section,

(1) *Dangerous dog* means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal or killed a companion animal; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite; ~~or~~ (ii) both dogs are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian; or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

(2) *Vicious dog* means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the

behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

(b) Any animal control officer or law enforcement officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact the animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Section ~~3.1-796.1193.2-6562~~ of the Code of Virginia, 1950, as amended.

(c) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

(d) The owner of any animal found by a court to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the animal control officer for a fee of fifty dollars (\$50.00) in addition to other fees that may be authorized by law. The animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(e) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed, and (iii) that the owner has liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00), that covers animal bites. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property, (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation, and (iii) that the animal has been neutered or spayed.

(f) While on the property of its owner, an animal found by a court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure ~~of sufficient height and designed~~ to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found by a court to be a dangerous dog shall be under the direct supervision by an adult 18 years of age or older and kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(g) If the owner of an animal, found by a court to be a dangerous dog, is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(h) After an animal has been found by a court to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the animal control officer if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to a different address.

(i) The owner of any animal, which has been found by a court to be a dangerous dog, who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.

(j) All fees collected pursuant to this section, less the costs incurred by the city in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund for the purpose of paying the expenses of any training course required under Section ~~3.1-796.1053.2-6557~~ of the Code of Virginia, 1950, as amended.

State law reference: Similar provisions, Code of Virginia §3.2-6540, et seq.

Sec. 6-51. ~~Seizure and impoundment of dangerous or vicious dogs~~Reserved.

~~In the event that the animal control officer has probable cause to believe that a dangerous or vicious dog is being harbored, cared for, kept or utilized in violation of sections 6-45, 6-46, 6-48 or 6-49, and in addition to the animal control officer's authority to issue a summons for violations thereof, he may petition a court of competent jurisdiction to order the seizure and impoundment of the dangerous or vicious dog pending trial. In addition to the animal control officer's authority to issue a summons for violations thereof, and in the event that he has probable cause to believe that a dangerous dog is being harbored, housed, kept or utilized in violation of section 6-46, the animal control officer may seize and impound the dangerous or vicious dog pending trial.~~

Sec. 6-52. Penalty.

- (a) Whoever violates Division 3 of this chapter shall be guilty of a Class 1 misdemeanor.
- (b) Any dangerous or vicious dog which attacks a human being or another domestic animal may be ordered destroyed when, in the court's judgment, such dangerous or vicious dog represents a continuing threat of serious harm to human beings or other domestic animals.
- (c) Any person found guilty of violating this division shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog.

DIVISION 4. ~~FERAL~~FREE-ROAMING CATS

Sec. 6-53. Unlawful care of ~~feral~~free-roaming cats; exception.

- (a) For purposes of this section the following terms shall have the following meanings:
 - (1) The acronym "ACO" shall mean the Newport News Animal Control Officer or designee.
 - (2) The term "~~caregiver~~colony manager" shall mean a resident of Newport News, Virginia who has been designated as a ~~feral~~free-roaming cat ~~caregiver~~colony manager by the ACO pursuant to the provisions of this ordinance, and who accepts responsibility for expenses associated with providing care to ~~feral~~free-roaming cats.
 - (3) The term "colony caregiver" shall mean a person who has been designated by the colony manager to assist with the care and feeding of free-roaming cats in a

managed colony.

- (34) The term "cat" shall mean a feline over the age of sixteen (16) weeks.
- (45) The term "~~feral~~free-roaming cat" shall mean any cat that is not or has never been owned by a person, or was formerly owned and has been abandoned.
- (56) The term "~~feral~~free-roaming cat colony" shall mean a group of ~~feral~~free-roaming cats, whether managed or unmanaged, who generally live outdoors and have little or no human contact.
- (7) The term "managed colony" shall mean a colony of free-roaming cats that is registered with the ACO and is maintained by the colony manager using trap, neuter, return methodology.
- (68) The term "kitten" shall mean a feline sixteen (16) weeks of age or under.
- (8) The term "trap/neuter/return (TNR)" shall mean a humane and non-lethal approach to free-roaming cat population control. It is a comprehensive management plan where healthy free-roaming cats are sterilized and vaccinated, then returned to their habitat and provided with long-term care.

(b) Except as provided in this section, it shall be unlawful for any person to provide food, water, ~~or other forms of sustenance~~ and care to ~~feral~~free-roaming cats, unless such person is ~~a resident of Newport News and has been designated as, and is currently appointed, a caregiver~~colony manager by the ACO.

(c) City residents desiring to provide food, water ~~and other forms of sustenance~~ and care to ~~feral~~free-roaming cats in Newport News shall annually apply to the ACO to be designated as a ~~caregiver~~colony manager, and every person so designated shall comply with the provisions of this section throughout their term of appointment. There is no fee associated with applying for this designation.

(d) Every ~~caregiver~~colony manager shall comply with the following conditions with respect to ~~feral~~free-roaming cats or ~~feral~~free-roaming cat colonies for which they are a designated ~~caregiver~~colony manager:

- (1) Provide documentation of (i) ~~support by occupants of all property adjacent to the property on which feral cats will be cared for,~~ (ii) permission by the owner(s), or their agent(s), of property on which ~~feral~~free-roaming cats are located to enter upon their property to provide such care, and ~~(iii)~~ (iii) a good faith estimate of the number of ~~feral~~free-roaming cats and kittens residing in the colony at the time a ~~caregiver's~~colony manager's designation is applied for; and (iii) notification to

adjacent property owners of the existence of the colony and colony manager's contact information.

- (2) Colony managers shall abide by standard guidelines devised by the ACO regarding the provision of food, water, shelter and veterinary care for cats within the managed colony.
- ~~(23)~~ Assume personal responsibility and make arrangements for feeding and providing emergency veterinarian treatment as needed to their feral free-roaming cat or feral free-roaming cat colony on a regular basis throughout the year, including weekends, holidays, and at such times as the ~~caregiver~~ colony manager is unable, for any reason, to provide such care.
- ~~(34)~~ Provide regular and frequent trapping of not less than two (2) times per month, through the use of humane box traps of feral free-roaming cats and kittens over the age of eight (8) weeks who have not been spayed or neutered, vaccinated, and marked as provided herein. The trapped feral free-roaming cats shall be spayed or neutered, vaccinated for rabies, and marked by having their ears tipped or notched by a veterinarian professionally licensed by the Commonwealth of Virginia. It is also recommended, but not required, that all trapped feral free-roaming cats be vaccinated by the veterinarian for distemper. ~~Implantation of a micro chip for identification purposes is also recommended, but not required.~~
- ~~(45)~~ Make every attempt to remove kittens ~~from the colony between the age of eight (8) weeks and sixteen (16) weeks~~ for domestication and placement with a person or foster who is willing to be the owner of same.
- ~~(5)~~ ~~If possible, have all trapped feral cats and kittens tested for feline leukemia and feline immunodeficiency virus, and to have those which test positive for same humanely euthanized.~~
- ~~(6)~~ ~~Assure that any feral cat or kitten known to have an infectious disease is not released to the outdoors.~~
- ~~(76)~~ Maintain, on an individual cat basis, documentation of all vaccinations, inoculations, medical procedures and sustenance provided to feral free-roaming cats under their care, and upon request, to provide such documentation to the ACO.
- ~~(87)~~ Authorize veterinarians attending to feral free-roaming cats or kittens under their care to release copies of all medical records with regard to such feral free-roaming cats to the ACO.
- ~~(98)~~ Maintain protection for the feral free-roaming cats and kittens sufficient to shield

them from adverse weather conditions, and maintain the surrounding area free and clear of garbage, trash and debris.

(+09) Refuse to accept the introduction of new cats to an existing registered ~~feral~~free-roaming cat colony without permission of the ACO.

(+10) Insure that a ~~feral~~free-roaming cat colony for which a person has been designated a ~~caregiver~~colony manager does not exceed twenty (20) cats.

(e) In the event a ~~caregiver~~colony manager is found by the ACO to have violated any provision of this chapter, or failed to comply with any of its provisions, the ACO may require the ~~caregiver~~colony manager to cease, desist and rectify their violation, or terminate their designation as a ~~caregiver~~colony manager, depending on the severity of the violation. If abatement of the violation is appropriate, the ~~caregiver~~colony manager shall be issued a notice of non-compliance specifying that the ~~caregiver~~colony manager has ~~forty-eight (48) hours~~five (5) working days within which to provide a written response to the ACO specifying the steps to be taken by the ~~caregiver~~colony manager to come into compliance with the provisions of this chapter within a thirty-day period. The ACO may grant one (1) thirty-day extension if the ~~caregiver~~colony manager demonstrates a good faith effort to comply, and the ACO feels that compliance may be achieved within the thirty-day extension period. The ~~caregiver~~colony manager shall make an action report to the ACO at the end of each thirty-day period or when compliance is achieved, whichever occurs first. If the ACO determines that the violation is sufficiently serious to warrant termination of the ~~caregiver~~colony manager designation, a notice of such termination shall be provided to that person.

(f) If compliance with the provisions of this chapter is not achieved as provided in subsection (d) of this section, or if termination as a ~~caregiver~~colony manager is otherwise warranted, the ACO shall cause a notice of termination to be either personally delivered to the ~~caregiver~~colony manager or mailed to the ~~caregiver~~colony manager by certified mail, return receipt requested, at the address provided by the ~~caregiver~~colony manager on their current application for such designation. Compliance with this subsection by personal delivery shall be effective upon delivery; compliance with this section by mailing shall be effective on the day first delivered to the recipient's address. Termination of designation as a ~~caregiver~~colony manager by the ACO may be appealed to the city manager's office by such person by providing notice of the appeal in writing stating the basis for the appeal within ten (10) calendar days of delivery of the notice of termination as required in this subsection.

(g) For purposes of this chapter, and except as provided in this section, a person who has been designated as a ~~caregiver~~colony manager shall not be considered an owner or a custodian of the ~~feral~~free-roaming cats for which they are providing care.

(h) The provisions of this section do not grant to ~~caregivers~~any colony manager any authority to enter upon the property of others without the property owner's permission.

(i) In the event the ACO becomes aware, either through a complaint or personal observation, of a ~~feral~~free-roaming cat or ~~feral~~free-roaming cat colony, he/she shall make a reasonable attempt to determine if a suspected ~~feral~~free-roaming cat or ~~feral~~free-roaming cat colony has a ~~caregiver~~colony manager who will comply with this section. If, after making such an attempt, no ~~caregiver~~colony manager is identified or is willing to comply with the provisions of this section, the ACO shall take all necessary action to obtain permission from the property owner(s) to enter upon the property to capture and remove the ~~feral~~free-roaming cats, and to dispose of the captured cats in accordance with the provisions of this chapter for the disposal of impounded animals.

~~———— (j) ——— Neither feral cats nor feral cat colonies may be maintained on property owned or controlled by the city.~~

ARTICLE III. ANIMAL WELFARE ORDINANCE

Sec. 6-54. Title.

This article shall be known as the Newport News Animal Welfare Ordinance and may be so cited.

Sec. 6-55. Declaration of policy and purpose.

(a) The city council declares that it is the policy and purpose of this article to insure that animals are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of animals. It is the purpose of this article to insure that all animals, wherever found, and especially animals confined in pet shops, boarding kennels, animal shelters, auction markets, ~~pounds,~~ research facilities, transportation facilities and vehicles and in other similar places, are provided humane care and treatment. It is also the purpose of this article to protect the owners and purchasers of animals from misleading or fraudulent warranties regarding animals and from theft of their animals; to prevent the sale or use of stolen animals; and to insure that only animals that appear to be free of infection, communicable disease and abnormalities are released for sale, trade or adoption, unless subsequent veterinary care is assured.

(b) The city council declares that it is the intent of this article to protect the public health, safety and welfare by controlling animals as items of commerce to prevent disease, fraudulent practices and inhumane treatment and conditions.

Sec. 6-56. DefinitionsReserved.

~~The following words, as used in this article, shall have the meanings ascribed to them in this~~

section:

~~——— *Adequate feed* means the provision, at suitable intervals, not to exceed twenty-four (24) hours, of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal.~~

~~——— *Adequate shelter* means that animals kept outdoors must be provided with moisture proof, wind proof shelters at least four (4) inches off the ground of a size which allows the animal to turn around, sit and lie easily and freely in a normal position and to keep the animal clean, dry and comfortable.~~

~~——— *Adequate water* means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals and in a suitable manner for the species, and not to exceed twenty-four (24) hours at any interval.~~

~~——— *Agricultural animals* means cattle, horses, swine, sheep, goats and poultry.~~

~~——— *Ambient temperature* means the temperature surrounding the animal.~~

~~——— *Animal* means domestic animals, including both agricultural and companion animals, if not specified otherwise.~~

~~——— *Animal shelter* means a facility which is used to house or contain animals and which is owned, operate or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.~~

~~——— *Boarding kennel* means a place or establishment, other than a pound or animal shelter, where companion animals not owned by the proprietor are sheltered, fed and watered in exchange for a fee, but shall not include training or show kennels.~~

~~——— *Companion animals* means dogs, both domestic and feral, cats, both domestic and feral, monkeys and all members of the monkey family, guinea pigs, hamsters, rabbits, exotic animals and exotic and native birds. Game species shall not be considered companion animals for the purposes of this article.~~

~~——— *Dealer* means any person who, in the regular course of business for compensation or profit, buys, sells, transfers, except as a common carrier, exchanges or barter companion animals.~~

~~——— *Dog warden* means any person employed, contracted or appointed by the city for the purpose of aiding in the enforcement of this article or any other ordinance relating to the licensing of dogs, control of dogs or seizure and impoundment of dogs. The term includes any state or municipal police officer, animal control officer, sheriff, constable or other employee whose duties, in whole~~

~~or in part, include assignments which involve seizure or taking into custody of any dog.~~

~~——— *Euthanasia* means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.~~

~~——— *Exotic birds* means any bird that is not a species native to the United States.~~

~~——— *Housing facility* means any room, building or area used to contain a primary enclosure or enclosures.~~

~~——— *Humane society* means any chartered, not for profit organization incorporated under the laws of this state and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.~~

~~——— *Owner* means any person who has a right of property in an animal; keeps or harbors an animal; has an animal in such person's care; or acts as custodian of an animal.~~

~~——— *Pet shop* means an establishment where companion animals are bought, sold, exchanged or offered for sale or exchange to the general public.~~

~~——— *Pound* means a facility operated by the city for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted animals, or a facility operated for the same purpose under a contract with any other city, county, town or incorporated society for the prevention of cruelty to animals.~~

~~——— *Primary enclosure* means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment or hutch.~~

~~——— *Research facility* means any place, laboratory or institution at which scientific tests, experiments or investigations involving the use of living animals are carried out, conducted or attempted.~~

~~——— *Sanitize* means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.~~

~~——— *Tether* means the practice of fastening a dog by use of a chain, leash, cable or other means to a stationary object, stake, trolley system or swivel as a means of keeping the animal under control.~~

Sec. 6-57. Exceptions from article.

(a) This article shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital or boarding kennel, where animals are harbored, boarded and cared for incident to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine or to animals boarded under the immediate supervision of a duly licensed veterinarian.

(b) The exception granted by this section shall not apply to sections 6-58, 6-59, 6-60 and 6-61.

Sec. 6-58. Cruelty to animals generally.

(a) Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, willfully inflicts inhumane injury or pain, not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates or kills, any animal, whether belonging to such person or another, (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment, (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such spring for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; or who causes any of the above things, or who, being the owner of such animal, permits such acts to be done by another, or who (iv) willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal, or (v) causes any of the above things, or being the owner of such animal permits such acts to be done by another shall be guilty of a Class 1 misdemeanor.

(b) Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

(c) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping or to farming activities as regulated under titles of the Code of Virginia, 1950, as amended, including Title 29.1.

(d) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor.

(e) Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

Similar provisions, Code of Virginia, § 3.1-796.122; authority of city to prohibit cruelty to animals; § 3.1-796.943.2-6570.

Sec. 6-59. Maiming, killing or poisoning ~~dogs or fowl~~animal.

Except as otherwise provided for by law, if any person maliciously shoots, stabs, wounds or otherwise causes bodily injury to, or administers poison to or exposes poison with intent that it be taken by, any ~~dog or fowl~~animal of another, with intent to maim, disfigure, disable or kill the same, or if any person does any of the foregoing acts to any ~~dog or fowl~~animal of his or her own, with intent to defraud any insurer thereof, such person shall be guilty of a Class 1 misdemeanor.

Similar provisions, Code of Virginia, § 18.2-144, which makes similar acts relating to livestock a felony.

Sec. 6-60. Fighting of cocks, dogs, etc.

(a) It shall be unlawful for any person to (i) promote, prepare for, engage in, be employed in or attend an exhibition of the fighting of cocks, dogs or other animals for amusement, sport, money, prize or anything of value, or upon the result of which any money or other thing of value is bet or wagered, or to which an admission fee is charged, directly or indirectly; (ii) authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or (iii) aid or abet any such acts. Except as provided in subsection (b), any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.

(b) (1) Any animal control officer, as defined in this chapter, shall confiscate any animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting.

(2) Upon confiscation of an animal, the animal control officer shall petition the appropriate court for a hearing for a determination of whether the animal has been, is, or is intended to be used in animal fighting. The hearing shall be not more than ten (10) business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the locality unless the owner posts bond in surety with the locality in an amount sufficient to compensate the locality for its cost of caring for the animal for a period of nine (9) months. He shall post additional bond for each successive nine (9) month period until a final determination by the trial court on any criminal charges brought pursuant to subsections (a) or (b).

(3) Upon a final determination of guilt by the trial court on criminal charges

brought pursuant to subsections (a) or (b), the court shall order that the animal be forfeited to the locality. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.

(c) Any person convicted of violating any provisions of subsection (a) or (b) shall be prohibited by the court from possession or ownership of companion animals or cocks.

(d) In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred for housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.

(e) The provisions of this section shall not apply to any law enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting, fishing, or trapping authorized under any title of the Code of Virginia, 1950, as amended, or regulations promulgated thereto or (ii) farming activities authorized under Title 3.2 of the Code of Virginia, 1950, as amended, or regulations promulgated thereto.

Similar provisions, Code of Virginia, §§ 3.1-796.124, 3.1-796.125, 3.2-6571.

Sec. 6-61. Leaving maimed, diseased, etc., animal in street or other public place.

It shall be unlawful for any person owning or having in custody any maimed, diseased, disabled or infirm animal to leave it to lie or be in a street, road or public place.

Similar provisions, Code of Virginia, § 18.2-323.

Sec. 6-62. Duty of owners to provide feed, water, shelter, etc.

(a) Each owner shall have the duty to provide, for each of such owner's companion animals and pursuant to regulations adopted by the state board of agriculture and commerce:

- (1) Adequate feed ~~and adequate water~~;
- (2) Adequate water;
- (23) Adequate shelter that is properly cleaned;
- (34) Adequate space in the primary enclosure for the particular type of animal, depending upon its age, size and weight;

- (5) ~~Humane care and treatment.~~Adequate exercise;
- (6) Adequate care, treatment, and transportation; and
- (~~4~~7) Veterinary care when needed to prevent suffering or disease transmission; and

The provisions of this section shall also apply to every animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized.

(b) Violation of this section is a Class 4 misdemeanor. A second or subsequent violation of subdivision (a)(1), (2), (3) or (7) is a Class 2 misdemeanor and second or subsequent violation of subsection (a)(4), (5) or (6) is a Class 3 misdemeanor.

Sec. 6-63. Care required of dealers and pet shops.

It shall be unlawful for any dealer or owner or operator of a pet shop to fail to adequately house, feed, water, exercise and care for animals in his or her possession or custody. Animals not so provided for shall be subject to seizure and impoundment and, upon conviction of such dealer, owner or operator of violating this section, such animals may be sold or euthanized. Any funds that result from such sale shall be used first to pay the costs of the city for the impoundment and disposition of the animals and any funds remaining shall be paid to the owner, if known. In the event that the owner is not found, the remaining funds shall be paid into the city treasury.

Sec. 6-64. Care of animals being transported.

(a) No owner, railroad or other common carrier, when transporting any animal, shall allow that animal to be confined in any type of conveyance for more than ~~twenty-eight~~four (~~28~~24) consecutive hours, without being exercised, properly rested, fed and watered as necessary for that particular type and species of animal; provided, however, that a reasonable extension of this time shall be permitted when an accident, storm or other act of God causes a delay. Adequate space in the primary enclosure within any type of conveyance shall be provided each animal, depending upon the particular type and species of animal.

(b) No person shall carry or cause to be carried, in or upon any vehicle, vessel or other conveyance, any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering.

(c) Violation of any provision of this section shall constitute a Class 1 misdemeanor.

Sec. 6-65. ~~Importing or exporting puppy, for purpose of sale, without dam~~Reserved.

~~No person shall import into this city, nor export from this city, for the purpose of sale or offering for sale, any dog under the age of eight (8)seven (7) weeks, without its dam. Violation of this section shall constitute a Class 1 misdemeanor.~~

Sec. 6-66. ~~Sale of baby fowl in certain quantities prohibited~~Reserved.

~~No person shall sell or offer for sell as pets or novelties, in quantities of less than six (6), any living baby chicks, ducklings or other fowl under two (2) months old.~~

Sec. 6-67. Misrepresentation of animal's condition.

No person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery or other method of transfer. For the purpose of this section, misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the animal has an infection, communicable disease, parasitic infestation, abnormality or other physical defect that is not made known to the person receiving the animal. Violation of this section is a Class 3 misdemeanor.

Sec. 6-68. Abandonment of animal.

No person shall abandon any animal. ~~Abandonment, for the purposes of this section, is defined as deserting, forsaking or intending to absolutely give up an animal, without securing another owner or without providing the necessities set out in section 6-62.~~Violation of this section is a Class 3 misdemeanor.

Sec. 6-69. Procedure when animals left unclaimed with veterinarian or boarding kennel.

Any animal not claimed by its owner from a licensed veterinarian or boarding kennel within ~~thirty (30)~~fourteen (14) business days after a letter of notice has been sent to the owner, if found, by the veterinarian or boarding kennel, may be sold by the veterinarian or boarding kennel. The animal may be sold at public or private sale for fair compensation to a person capable of providing care consistent with this article. Any expense incurred by the veterinarian or boarding kennel becomes a lien on the animal and the proceeds of the sale shall first be used to discharge this lien. Any balance of the proceeds shall be paid over to the owner; provided, however, that if the owner cannot be found within the next ensuing thirty (30) days, the balance shall be paid to the city treasury. If no purchaser is found, the animal may be offered for adoption or euthanized.

Sec. 6-70. Rights of veterinarian as to sick or injured animal when owner cannot be located.

If a licensed veterinarian is called, or by his or her own action comes upon an animal that is sick or injured and the owner of such animal cannot be immediately located, then the licensed veterinarian, in his or her professional judgment, may treat, hospitalize or euthanize the animal, without the permission of the owner. In no event shall a licensed veterinarian who has properly exercised professional judgment regarding such animal be subject to liability for his or her actions.

Sec. 6-71. ~~Violations of article generally~~Reserved.

~~Except as otherwise provided in other sections of this article, a violation of any provision of this article shall constitute a Class 3 misdemeanor.~~

Sec. 6-72. Investigation of complaint of violation of article; corrective action.

(a) Upon receiving a complaint of a suspected violation of this article, the ~~dog warden~~animal control officer or any law enforcement official may, for the purpose of investigating the allegations of the complaint, enter upon the premises of a dealer or pet shop, and upon obtaining a warrant, upon any other premises where the animal or animals described in the complaint are housed or kept. The commonwealth's attorney and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations.

(b) If the investigation provided for in this section discloses that a violation of this article has occurred, the investigator shall notify the owner or custodian of the complaint and of what action is necessary to comply with this article. ~~The owner or custodian shall have a maximum of forty-eight (48) hours in which to take corrective action. If, at the end of that period, corrective action has not been taken, legal action shall be instituted.~~

(c) This section shall not apply to sections 6-58, 6-59 and 6-60, and investigations and prosecutions for violations of those sections shall be handled as they are for violations of other ordinances of the city.

Sec. 6-73. ~~Impoundment of animals when article violated~~Seizure and impoundment of animals.

(a) ~~When the dog warden, any law enforcement official or a licensed veterinarian finds that an apparent violation of this article has rendered an animal in such a condition as to constitute a direct and immediate threat to its life, safety or health, which the owner or custodian has failed or refuses to remedy, a humane society may impound the animal in a facility which will provide the elements of good care set forth in section 6-62.~~Any law enforcement officer or animal control

officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. Before seizing or impounding any agricultural animal, such humane investigator, law enforcement officer or animal control officer shall contact the State Veterinarian or a State Veterinarian's representative, who shall recommend to such person the most appropriate action for the disposition of the agricultural animal. The law enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney of the recommendation. The law enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

- (1) The owner or tenant of the land where the agricultural animal is located gives written permission;
- (2) A general district court so orders; or
- (3) The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the law enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law enforcement officer or animal control officer shall file within five (5) business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the disposition of the animal, any other information required by the State Veterinarian.

Upon seizing or impounding an animal, the humane investigator, law enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than ten (10) business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

(b) Any expense incurred in an impoundment authorized by this section shall become a lien on the animal impounded and must be discharged before the animal is released from the facility. When the animal is not claimed by its owner and all impoundment costs satisfied within seven (7) days, it may, upon seven (7) days' notice personally served upon the owner or custodian, or mailed to such owner or custodian at his or her last known address, be sold at public or private sale for fair consideration to a person capable of providing care consistent with this article, with the proceeds of that sale applied first to discharge the lien and any balance to be paid over to the owner. If the owner cannot be found within the next ensuing thirty (30) days, the balance shall be paid into the city treasury. If no purchaser is found, the animal may be offered for adoption or euthanized. The law enforcement officer or animal control officer shall cause to be served upon the person with a

right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five (5) days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia, 1950, as amended, shall be given. If such person or the custodian is not known, the humane investigator, the law enforcement officer or animal control officer shall cause to be published in a newspaper in general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posed at least five (5) days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

(c) Nothing in this section shall prohibit the owner of an animal which has been wrongfully impounded from maintaining an action for damages against the dog warden, law enforcement officer or veterinarian responsible for such wrongful impoundment. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4, (§19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia, 1950, as amended. The Commonwealth shall be required to prove its case beyond a reasonable doubt .

(d) The law enforcement officer or animal control officer shall provide for such animal until the court has concluded the hearing. The owner of any animal held pursuant to this subsection for more than thirty (30) days shall post a bond in surety for the amount of the cost of boarding the animal for nine (9) months. The bond shall be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in this chapter, or (iii) raised as a dog that has been, is or is intended to be used in dogfighting in violation of section 6-60, then the court shall order that the animal be: (a) sold; (b) humanely destroyed, or disposed of by sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located with the Commonwealth; (c) delivered to any local humane society or shelter, or to any person who is a resident of the city where the animal is seized or an adjacent county or city in the Commonwealth and who will pay the required license fee, if any, on such animal; or (d) delivered to the person with a right of property in the animal as provided in subsection (e).

(e) In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment or deprivation of adequate care is not attributable to the action or inactions of such person.

(f) The court shall order the owner of any animal determined to have been abandoned, cruelly treated or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

(g) The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter and other laws prohibiting cruelty to animals or pertaining to the care and treatment of animals and the owner's mental and physical condition.

(h) If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

(i) Any person who is prohibited from owning or possessing animals pursuant to subsection (g) or (h) may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

(j) When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal.

(k) Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law enforcement officer, animal control officer or licensed veterinarian.

(l) In all cases the owner may, upon proof of ownership, redeem the animal within five (5) days after such seizure upon payment of the sum of twenty-five dollars (\$25.00) for the first twenty-four (24) hours or portion thereof and the sum of fifteen dollars (\$15.00) for each succeeding day or fraction thereof; provided, however, that the minimum payment shall be twenty-five dollars (\$25.00). For each subsequent impoundment, within a twelve-month period, the owner may redeem the animal within five (5) days of seizure upon payment of the sum of fifty dollars (\$50.00) for the first twenty-four (24) hours or portion thereof and the sum of fifteen dollars (\$15.00) for each succeeding day or fraction thereof; provided, however, that the minimum payment in such cases shall be fifty dollars (\$50.00).

State law reference: Similar provisions, Code of Virginia §3.2-3569.

Sec. 6-74. Impoundment records.

The animal ~~warden~~control officer or the custodian of the ~~pound~~public animal shelter, upon taking custody of any animal in the course of his or her official duties, shall immediately make a record thereof. The record shall include a description of the animal, including color, breed, sex, approximate weight, reason for seizure, location of seizure, the owner's name and address, if known, and all license or other identification numbers, if any. Complete information relating to the disposition of the animal shall be added to the record, immediately after disposition of the animal.

Sec. 6-75. Sale or gift of animals released from ~~pound~~public animal shelter generally.

(a) No animal impounded at the city's ~~pound~~public animal shelter shall be sold or given away other than by sale or gift directly to federal agencies, state-supported institutions, agencies of the Commonwealth of Virginia, agencies of other states, or by delivery to dealers licensed by federal, state or local authorities, or by delivery to a local humane society shelter or to any person who will pay the required fee, if any, on such animal. Any proceeds deriving from the gift, sale or delivery of such animals shall be paid directly to the city treasurer and no part of such proceeds shall accrue to any individual.

(b) — The board of directors of an incorporated humane society shall determine the method of disposition of animals released by its animal shelter. Any proceeds deriving from the gift, sale or delivery of such animals shall be paid directly to the clerk or treasurer of the humane society for the expenses of the society and expenses incident to any agreement concerning the disposing of such animals and no part of such proceeds shall accrue to any individual except for such purposes.

Sec. 6-76. ~~Dog warden~~Animal control officer not to sell or give animals to dealers, pet shops, etc.

The ~~dog warden~~animal control officer and such ~~warden's~~officer's representatives shall not give or sell, or negotiate for the gift or sale, to a pet shop, dealer or research facility, of any animal which may come into his or her custody in the course of carrying out his or her official assignments.

Sec. 6-77. ~~Dog warden~~Animal control officer not to be licensed as dealer.

The ~~dog warden~~animal control officer shall not be granted a dealer's license and each application for such license shall include a statement made under oath that neither the applicant nor any member or employee of the firm, partnership or corporation making application is the ~~dog~~

~~warden~~animal control officer.

Sec. 6-78. Unattended tethering of dogs prohibited; exceptions.

(a) It shall be unlawful to tether any unattended dog for a period exceeding one (1) continuous hour.

(b) When a dog is tethered, the tether must be attached to the dog by a properly applied collar, halter, or harness configured so as to protect the dog from injury and prevent the dog or the tether from becoming entangled with other objects or dogs, or from extending over an object or edge that could result in the strangulation or injury of the dog. Furthermore, the tether must be at least three (3) times the length of the dog, as measured from the tip of its nose to the base of its tail.

(c) Any owner, whose dog has a valid license pursuant to section 6-33 as of February 1, 2015, shall be exempt from the provisions of this section as it relates to each dog owned and licensed prior to February 1, 2015. The exemption provided by this subsection shall be forever forfeit for any dog whose license is not renewed by February 1 of any subsequent year.

(d) Violations of this section shall constitute a Class 3 misdemeanor.

Editor's note—

Section 2 of Ord. No. 7125-14 specifies an effective date of July 1, 2015.

Sec. 6-79. Use of animals as prizes or inducements.

No person shall give away any vertebrate animals as a prize for or as an inducement to enter any contest, a game or other competition or as an inducement to enter a place of amusement or offer such vertebrate as an incentive to enter into any business agreement, whereby the offer was for the purpose of attracting trade.

Sec. 6-80. Animals riding in open vehicles.

(a) It shall be unlawful for the operator of any motor vehicle to place or keep an animal in any portion of such vehicle that is open in such a manner as to permit such animal to jump out of or escape the vehicle or to be thrown from the vehicle by acceleration or stopping of the vehicle or by an accident involving the vehicle. The prohibited portions of a motor vehicle shall include, but not be limited to:

(1) The open bed of a truck or upon a motorcycle; or

- (2) The rear storage portion of a vehicle with the tailgate, trunk or hatchback portion open or down.

For the purpose of this section, the operator of a motor vehicle shall be deemed to have control of any animal found therein.

- (b) The provisions of this section shall not apply to:

(1) Any person who operates a motor vehicle in which an animal is secured in a cage or carrier of adequate design and shape to protect the animal and prevent its escape;

(2) Any animal which is properly secured, restrained or tethered;

(3) Law enforcement animals; or

(4) Animal control vehicles.

(c) Violations of this section shall constitute a Class 3 misdemeanor.

Secs. 6-81--6-87. Reserved.

ARTICLE IV. RABIES CONTROL

Sec. 6-88. Vaccination or inoculation of cats, dogs and ferrets.

(a) It shall be unlawful for any person to own, keep, hold or harbor any cat or dog over the age of four (4) months within the city unless such cat or dog shall have been vaccinated with a vaccine licensed by the U.S. Department of Agriculture (USDA) as recommended in the Compendium of Animal Rabies Vaccines, prepared by the National Association of State Public Health Veterinarians. It shall be unlawful for any person or dealer to sell, own, keep, hold, or harbor any ferret, three (3) months of age or older, within the city unless such ferret has been vaccinated with a vaccine licensed by the U.S. Department of Agriculture (USDA). If, however, the requirement of vaccination or inoculation threatens the physical well-being of such cat, dog or ferret, the owner of such cat, dog or ferret shall have a certificate signed by a licensed veterinarian certifying the same; and the owner shall keep such cat or dog [or ferret] in quarantine until same is inoculated or vaccinated.

(b) Any person transporting a cat, dog or ferret into the city from some other jurisdiction shall conform with the provisions of this section within thirty (30) days subsequent to bringing such cat, dog or ferret into the city.

(c) At the time of inoculation or vaccination under this section, a suitable and distinctive collar tag and certificate of rabies vaccination or inoculation, certifying that the cat, dog or ferret in question has been inoculated or vaccinated as provided in this section, shall be issued to the owner of the cat, dog or ferret in question. The collar tag shall be affixed to the cat's, dog's or ferret's collar and shall be worn at all times when the cat, dog or ferret is not on the owner's property or in the immediate control of a responsible person.

(d) A certificate of rabies vaccination or inoculation issued under this section shall show the date of injection; sex and breed of cat, dog or ferret; weight of the cat, dog or ferret; color and marks of the cat, dog or ferret; rabies tag number; the owner of the cat, dog or ferret; amount and kind of vaccine injection; and the method of injection. Such certificate shall certify that the cat, dog or ferret has been properly vaccinated with animal rabies vaccine licensed by the U.S. Department of Agriculture as recommended in the Compendium of Animal Rabies Vaccines, prepared by the National Association of State Public Health Veterinarians.

(e) Each day such animal is allowed to go unvaccinated shall be considered a separate offense.

Sec. 6-89. Report of existence of rabid animals.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the city health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

Sec. 6-90. Emergency ordinance requiring confinement or restraint of cats or dogs when rabid animal at large.

When there is sufficient reason to believe that a rabid animal is at large, the city council shall have the power to pass an emergency ordinance, which shall become effective immediately upon passage, requiring owners of all cats or dogs in the city to keep the same confined on their premises, unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten thereby. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed thirty (30) days, unless renewed by the city council.

Sec. 6-91. Confinement or destruction of cats or dogs showing signs of or suspected of having rabies.

Cats or dogs showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If

confinement is impossible or impracticable, such cat or dog shall be destroyed.

Sec. 6-92. Confinement or destruction of cat or dog bitten by rabid animal.

Any cat or dog bitten by an animal believed to be afflicted with rabies shall be destroyed immediately or confined in a ~~pound~~public animal shelter, kennel or enclosure approved by the health department for a period not to exceed six (6) months, at the expense of the owner of such cat or dog. If the bitten cat or dog has been vaccinated against rabies within one (1) year, the cat or dog shall be revaccinated and confined to the premises of its owner for thirty (30) days.

Sec. 6-93. Confinement or destruction of animal which has bitten person.

At the discretion of the director of health, any animal which has bitten a person shall be confined under competent observation for ten (10) days, unless the animal develops active symptoms of rabies or expires before that time; provided, that a seriously injured or sick animal may be humanely euthanized and its head sent to the health department for evaluation.

Sec. 6-94. Concealing or harboring animal to prevent its destruction or confinement under article.

(a) It shall be unlawful for any person to conceal or harbor any cat or dog or other animal to keep the same from being destroyed or confined in accord with this article.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

~~Sec. 6-95. Treatment of person bitten by rabid animal:~~

~~Any person bitten by a rabid animal within the city shall be paid the costs of necessary treatment by the city, not to exceed five hundred dollars (\$500.00); provided, that no person shall be entitled to recover such costs unless such person first applies to the health officer for treatment and such officer refuses or fails to treat the case.~~

F. Consent Agenda

7. Ordinance Amending City Code, Chapter 26, Motor Vehicles and Traffic; Article V., Permit for Operation of Oversize or Overweight Vehicles or Moving Houses; Section 26-89, General Authority to Issue; and Section 26-94, Permit Fees and Charges

ACTION: A REQUEST TO ADOPT AN ORDINANCE AMENDING CITY CODE, CHAPTER 26, MOTOR VEHICLES AND TRAFFIC; ARTICLE V., PERMIT FOR OPERATION OF OVERSIZE OR OVERWEIGHT VEHICLES OR MOVING HOUSES; SECTION 26-89, GENERAL AUTHORITY TO ISSUE; AND SECTION 26-94, PERMIT FEES AND CHARGES.

BACKGROUND:

- In accordance with City Code, the operation of any vehicles over City streets or combinations of width, height, length or weight which exceed that permitted by state law, requires a permit issued by the Department of Engineering.
- Section 26-89 will be revised to change the reference from 'Restricted Blanket Permit' to 'Super Load Blanket Permit' and identifying a 'Single Trip Super Load Permit.'
- Section 26-94 will be revised to remove the reference that prohibits blanket permits for Super Loads.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Ord Amdmnt to Chapt 26 Motor Vehicles
sdm14523 Amending Article V, Overweight Vehicles of Chapter 26

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Ordinance Amendment to Chapter 26, Motor Vehicles and Traffic

City Council is requested to adopt an ordinance amending City Code, Chapter 26, Motor Vehicles and Traffic, Article V, Permit for Operation of Oversize or Overweight Vehicles or Moving Houses; Section 26-89 General authority to issue; and Section 26-94, Permit fees and charges.

The amendment to Section 26-89 will change the reference from Restricted Blanket Permit to Super Load Blanket Permit and identify a Single Trip Super Load Permit. Section 26-94 will be amended to remove the reference that prohibits blanket permits for Super Loads.

These changes will become effective immediately.

I recommend approval.


James M. Bourey

JMB:JEH:mjd

cc: Everett Skipper, Director, Department of Engineering

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 26, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE V., PERMIT FOR OPERATION OF OVERSIZE OR OVERWEIGHT VEHICLES OR MOVING HOUSES, SECTION 26-89, GENERAL AUTHORITY TO ISSUE; AND SECTION 26-94, PERMIT FEES AND CHARGES.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 26, Motor Vehicles and Traffic, of the Code of the City of Newport News, Virginia, Article V., Permit for Operation of Oversize or Overweight Vehicles or Moving Houses, Section 26-89, General authority to issue; and Section 26-94, Permit fees and charges, be, and the same hereby is, amended and reordained as follows:

CHAPTER 26

MOTOR VEHICLES AND TRAFFIC

**ARTICLE V. PERMIT FOR OPERATION OF OVERSIZE
OR OVERWEIGHT VEHICLES OR MOVING HOUSES**

Sec. 26-89. General authority to issue.

The director of engineering or his designee may issue permits, conditioned as deemed necessary or advisable, permitting the operation of vehicles, or combinations thereof, the width, height, length or weight of which exceed that permitted by the state law adopted by section 26-8, if such operation will not damage any infrastructure, render the streets dangerous or otherwise unduly impair the free flow of traffic thereon. The issuance of permits shall be in accordance with the City's Moving and Hauling Policy, ~~a copy of as~~ promulgated and amended by the director of engineering, which is incorporated herein by reference. Permits issued in accordance with this section shall be designated as Single Trip, General Blanket Permit, Single Trip Super Load or Restricted Super Load Blanket Permit, as defined in the City's Moving and Hauling Policy, ~~attached herewith and incorporated herein by reference.~~

Sec. 26-94. Permit fees and charges.

A permit fee of seventy-five (\$75.00) shall be paid to the city before any single move permit

(excluding super loads) shall be issued under this article; provided, however, that (i) the fee for each general blanket permit shall be two hundred dollars (\$200.00) for the first vehicle owned, leased or controlled by a person or business entity and fifty dollars for each additional vehicle owned, leased or controlled by such person or entity or (ii) the fee per vehicle for each ~~Restricted~~Super Load Blanket Permit issued under section 26-90 shall be two hundred dollars (\$200.00). A permit fee of one hundred and fifty dollars (\$150.00) shall be paid to the city before any super load permit for a single move, shall be issued under this article. ~~No blanket permits are available for super loads.~~

G. Other City Council Actions

1. Resolution Authorizing the City Manager to Execute a Second Amendment to the Project Development Agreement By and Between the City and Tri-City Management, Inc. (Windy Knolls Condominiums)

ACTION: A REQUEST TO APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE PROJECT DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND TRI-CITY MANAGEMENT, INC. (TCM) (WINDY KNOLLS CONDOMINIUMS)

BACKGROUND:

- The City received a request from TCM to amend the terms of its existing development agreement with the City regarding the future mix of residential units at the complex.
- City Council was briefed on this issue at its July 12, 2016 work session.
- Since that time, staff has gathered additional information and finalized the terms of the development agreement.
- The proposed amendment would permit the Windy Knolls development to consist of 52 condo units for sale, and the balance of the residential units would be apartments built and maintained to certain standards.
- Of the 304 residential units, 52 would remain condos, 168 apartments and 42 existing condo units that are currently being rented as apartments would be withdrawn from the Condo Homeowners Association, and an additional 48 apartments would be constructed on existing vacant land within the development, thereby increasing the units to a total of 310.
- Approval of the amendment will allow TCM and the Condo Association to implement their negotiated agreement.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Amdmnt to Windy Knolls Development Agrmnt

sdm14556 Second Amendment to Project Development Agmt - Tri-City Management

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Windy Knolls Amendment

The City has received a request from Tri-City Management, Inc. (TCM), the developer of Windy Knolls, to amend the terms of the development agreement between the City and TCM regarding the future mix of residential units at the complex. As you will recall, City Council held a work session on this issue at your July 12, 2016, meeting. Since that time, staff has gathered additional information and finalized the terms of the development agreement.

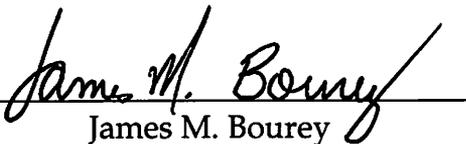
For background, in 2005, the City entered into a development agreement with TCM for the development of Windy Knolls. One of the terms of the agreement was the provision that the project would be constructed as condominiums. In 2008, given the downturn in the housing market, City Council approved the first amendment to the original development agreement that would allow for a mix of housing to include condos as well as apartment units. Since that time there have been issues and concerns between the developer and the condo owners regarding future development and the mix of residential units. After ongoing and extensive negotiations between the developer and the Condo Owners Association, they have jointly submitted a proposal for City Council's consideration and approval.

As an overview, the second amendment to the Development Agreement would permit the Windy Knolls development to consist of 52 condo units for sale (which are already built and occupied as such) and the balance of the residential units would be apartments built and maintained to certain standards to be compatible with the existing design of the condo units.

Currently there are 52 condo units that would remain condos, 168 apartments and 42 existing condo units that are currently being rented as apartments that would be withdrawn from the Condo Homeowners Association. It would allow for an additional 48 apartments to be constructed on the existing vacant land within the development. The total residential units would increase from 304 to 310.

After consultation with the parties involved and review of the documentation, the City has been advised that the involved parties support Council's adoption of the amendment to the Project Development agreement which in turn will allow for the TCM and the Condo Association to implement their negotiated agreement.

The City Manager recommends approval of the resolution.


James M. Bourey

JMB:CDR:cno

RESOLUTION NO. _____

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 SECOND AMENDMENT TO PROJECT DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND TRI-CITY MANAGEMENT, INC., DATED THE 9TH DAY OF AUGUST, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Second Amendment to Project Development Agreement by and between the City of Newport News, Virginia, and Tri-City Management, Inc., dated the 9th day of August, 2016.
2. That a copy of the said Second Amendment to Project Development Agreement is attached hereto and made a part hereof.
3. That this resolution shall be in effect on and after the date of its adoption, August 9, 2016.

**SECOND AMENDMENT TO
PROJECT DEVELOPMENT AGREEMENT**

This SECOND AMENDMENT TO PROJECT DEVELOPMENT AGREEMENT is dated the 9th day of August, 2016, and is made by and between the **CITY OF NEWPORT NEWS, VIRGINIA** (the “City”), a municipal corporation organized and existing under the laws of the Commonwealth of Virginia, and **TRI-CITY MANAGEMENT, INC.** (“TCM”), a Virginia corporation.

RECITALS:

I. In a “Project Development Agreement” dated April 12, 2005 (“the Agreement”), the City and TCM documented their understandings and agreements with respect to the development of certain property owned by TCM. The Project Development Agreement was amended by an agreement dated February 26, 2008 (the “Amendment”).

II. Section 7.3 of the Agreement provides in part that the Agreement may be modified by a written instrument executed by the City and TCM.

III. For business reasons and to resolve disputes with some of the owners of the condominium units, TCM, with the consent of the Windy Knolls Condominium Association, Inc., desire to make certain changes to the Agreement. The City is willing to agree to such changes subject to certain conditions.

IV. In accordance with Section 7.3 of the Agreement, the City and TCM desire to document their further agreement as to the terms and conditions by which the Agreement will be modified and henceforth applied.

AGREEMENT

In consideration of the matters described above, and of the mutual benefits and obligations contained in this Second Amendment to Project Development Agreement and Amendment, the City and TCM agree as follows:

A. Except as expressly modified or added to herein, all terms and conditions contained in the Agreement and the Amendment shall remain in full force and effect. As henceforth used in the Agreement and as used in this Second Amendment, "the Project" means the proposed condominium development which was the subject of the Agreement as revised by the Amendment and this Second Amendment to permit a mixed residential condominium and apartment project. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

B. Section 1.2.1 of the Agreement is modified to read as follows:

"1.2.1 TCM shall construct a mixed residential condominium and apartment project containing no fewer than 52 individual for sale condominium units (now completed and occupied) and no more than 258 luxury apartments for lease (168 completed luxury apartments, 42 condominiums to become luxury apartments upon contraction of the condominium and 48 luxury apartments to be constructed on formerly designated expandable land). TCM agrees that neither it nor its successors in title and interest or assigns will seek building permits for more than

a total of 310 dwelling units for the real property on which this Project is to be built and that this provision will be incorporated into any and all condominium documents that are required by state law”.

C. Section 1.2.1.3.2. The portion of the Project containing condominiums shall be subject to all State laws. Documents previously submitted in connection with the Project’s registration with the Virginia Common Interest Community Board pursuant to the Virginia Condominium Act shall be revised as necessary to effectuate the terms of this Second Amendment and shall be submitted to and filed with the Board.

D. The following sentence is deleted from Section 1.2.1.3.2 “Said documents shall also include satisfactory measures that ensure that at any given time no more than 40 condominium units are occupied pursuant to lease agreements”.

E. The Provision 1.3.4 has been previously satisfied and is hereby deleted.

F. Section 7.1 of the Agreement as Amended is modified as follows by adding at the end of said 7.1 the following language:

“HPWD, LLC purchased 42 units from TCM which are to become luxury apartments and withdrawn from the condominium with the consent of the Condominium Association. HPWD, LLC obtained a loan from Branch Banking and Trust Company which is secured by a Deed of Trust on the units. City agrees to allow HPWD, LLC to continue its ownership subject to the Deed of Trust upon

the land which formerly comprised Phases 4 and 5 of the
Condominium”.

WITNESS the following signatures and seals:

TRI-CITY MANAGEMENT, INC.,
a Virginia corporation

By: _____
Eric G. Olson, President

WINDY KNOLLS, L.L.C.,
a Virginia limited liability company

By: _____
Eric G. Olson, Manager

HPWD, L.L.C.,
a Virginia limited liability company

By: _____
Eric G. Olson, Manager

**WINDY KNOLLS CONDOMINIUM
ASSOCIATION, INC.,**
a Virginia non-stock corporation

By: _____
Its: _____

CITY OF NEWPORT NEWS, VIRGINIA

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

sdm14557

G. Other City Council Actions

2. Resolution Approving the Issuance of up to \$104 Million of Revenue Bonds by the Economic Development Authority of the City of Newport News (EDA) for the Benefit of Virginia Baptist Homes, Inc. d/b/a LifeSpire of Virginia

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROVING THE ISSUANCE OF REVENUE BONDS BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA (EDA) IN AN AMOUNT NOT TO EXCEED \$104 MILLION FOR THE BENEFIT OF VIRGINIA BAPTIST HOMES, INC., D/B/A LIFESPIRE OF VIRGINIA.

BACKGROUND:

- Virginia Baptist Homes, Inc., doing business as LifeSpire of Virginia (the Applicant) owns and operates three continuing care retirement communities in Henrico County, Culpeper County and Newport News.
- The facility in Newport News, the Chesapeake, is located at 955 Harpersville Road.
- In 2006, the Economic Development Authority of Henrico County, Virginia and the Peninsula Ports Authority of Virginia issued bonds which financed and refinanced prior obligations of the Applicant, which prior obligations financed the acquisition, construction and equipping of its three continuing care retirement communities.
- The Applicant now plans to refund the 2006 Bonds, refinance an existing line of credit and finance capitalized interest on the bonds, a debt service reserve fund for the bonds and costs of issuance related to the issuance of the current bonds.
- The EDA is scheduled to hold the necessary public hearing at its August 5, 2016 meeting and is expected to adopt an inducement and final resolution for the bond issuance.
- The EDA is recommending that Council provide the required jurisdictional approval for the bond issuance.
- The affiliated localities also approved the bond issuance, Henrico County on July 21, 2016 and Culpeper County on July

28, 2016.

- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re EDA Issuance of Bonds for LifeSpire of VA
sdm14524 Issuance of EDA Revenue Bonds-VA Baptist Homes

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Issuance of Revenue Bonds for the Benefit of Virginia Baptist Homes, Inc.,
d/b/a LifeSpire of Virginia

Virginia Baptist Homes, Inc., now doing business as (d/b/a) LifeSpire of Virginia (the "Applicant") owns and operates three (3) continuing care retirement communities in the state. The communities include the Culpeper Baptist Retirement Community, Inc. at 12425 Village Loop in Culpeper County, the Lakewood Manor Baptist Retirement Community, Inc. at 1900 Lauderdale Drive in Henrico County, and the Newport News Baptist Retirement Community, Inc. d/b/a The Chesapeake at 955 Harpersville Road. The Applicant is requesting bond financing, in an amount not to exceed \$104,000,000, to refund all or a portion of Economic Development Authority of Henrico County Residential Care Facility Revenue Bonds and the Peninsula Ports Authority of Virginia Residential Care Facility Revenue Bonds, both issued in 2006, refinance an existing line of credit, and finance capitalized interest on the Bonds, a debt service reserve fund and costs of issuance related to the Bonds.

With one of the facilities located in Newport News, the Economic Development Authority of the City of Newport News, Virginia (EDA) was asked to consider the bond issuance request. The EDA is scheduled to hold a required public hearing at its Board of Directors meeting on August 5, 2016 and adopt an inducement and final resolution, and is recommending that City Council approve the issuance of the bonds. Public hearings were also held in Henrico County on July 21, 2016 and in Culpeper County on July 28, 2016. Resolutions adopted by these jurisdictions, once received, will be provided to you.

Information provided by the Applicant adequately demonstrates that the refinancing of the project debt would benefit the inhabitants of the Commonwealth, including the residents of the City of Newport News. City Council is required to take public action providing jurisdictional approval of the bond issuance and the Plan of Finance of the Applicant.

The Honorable City Council

Page 2

Issuance of Revenue Bonds for the Benefit of Virginia Baptist Homes, Inc.,
d/b/a Lifespire of Virginia
August 3, 2016

The approval and issuance of the EDA Bonds for the benefit of the Applicant does not constitute an endorsement to any prospective purchaser of the bond of the creditworthiness of the project or the Applicant or any person, and the bond shall provide that neither the City, nor the EDA shall be obligated to pay the bond or the interest thereon or other costs incident thereto except from funds and properties pledged therefor, and neither the faith or credit, nor the taxing power of the Commonwealth of Virginia, EDA or the City shall be pledged thereto.

In order to assist the Applicant, the EDA recommends that City Council approve the issuance of the EDA Bonds as required by statute and the Internal Revenue Code. Since the EDA meeting will be held only four days prior to the City Council meeting, a copy of the Notice of Public Hearing, the executed EDA Resolution, an Excerpt of Minutes from the EDA's public hearing held on August 5, 2016 and an executed Fiscal Impact Statement will be forwarded to you after the EDA meeting, but prior to your August 9th City Council meeting.

I recommend that City Council support this request and adopt the Resolution approved by the City Attorney's Office for jurisdictional approval of the issuance of bonds in an amount not to exceed \$104,000,000 to assist Virginia Baptist Homes, Inc. d/b/a LifeSpire of Virginia with its Plan of Finance.


James M. Bourey

JMB:tfw

cc: Wendy C. Drucker, Chair, EDA
Florence G. Kingston, Director, Department of Development

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, ON THE ISSUANCE OF UP TO \$104,000,000 OF REVENUE BONDS BY THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA FOR THE BENEFIT OF VIRGINIA BAPTIST HOMES, INC., D/B/A LIFESPIRE OF VIRGINIA.

WHEREAS, the Economic Development Authority of the City of Newport News, Virginia (the "Authority") has approved the application of Virginia Baptist Homes, Inc., d/b/a LifeSpire of Virginia (the "Organization"), a nonstock, not-for profit Virginia corporation, requesting that the Authority issue up to \$104,000,000 of its revenue bonds in one or more series at one time or from time to time (the "Bonds") and loan the proceeds of the Bonds to the Organization and the Organization's affiliate corporations: Culpeper Baptist Retirement Community, Inc. (the "Culpeper Borrower"), Lakewood Manor Baptist Retirement Community, Inc. (the "Lakewood Borrower") and Newport News Baptist Retirement Community, Inc., d/b/a The Chesapeake (the "Newport News Borrower" and collectively, with the Organization, the Culpeper Borrower, the Lakewood Borrower and the Newport News Borrower, the "Borrowers"):

(1) to refinance an existing line of credit, which financed various capital improvements at (A) the Culpeper Borrower's continuing care retirement community campus at 12425 Village Loop, Culpeper, Virginia (the "Culpeper Community"), including, but not limited to the acquisition, construction and equipping of resident areas, (B) the Lakewood Borrower's continuing care retirement community campus at 1900 Lauderdale Drive, Henrico, Virginia (the "Lakewood Community"), including, but not limited to the acquisition, construction and equipping of resident areas, a cooling tower and chiller and the acquisition of vehicles to transport residents and (C) the Newport News Borrower's continuing care retirement community campus at 955 Harpersville Road, Newport News, Virginia (the "Newport News Community"), including but not limited to the acquisition, construction and equipping of resident areas and a new building automation system,

(2) to refund all or a portion of (a) the Economic Development Authority of Henrico County, Virginia's Residential Care Facility Revenue Bonds (Virginia Baptist Homes), Series 2006A, in the original principal amount of \$24,275,000, which financed and refinanced prior obligations of the Borrowers, which prior obligations financed the acquisition, construction and equipping of improvements to the Lakewood Community and the Newport News Community and (b) the Peninsula Ports Authority of Virginia Residential Care Facility Revenue Refunding Bonds (Virginia Baptist Homes), Series 2006C in the original principal amount of \$81,545,000, which financed and refinanced prior obligations of the Borrowers, which prior obligations financed the acquisition, construction and equipping of improvements at the Culpeper Community, the Lakewood Community and the Newport News Community, and

(3) to finance capitalized interest on the Bonds, a debt service reserve fund for the Bonds and costs of issuance related to the issuance of the Bonds (collectively, the "Plan of Finance"); and

WHEREAS, the Authority held a public hearing on August 5, 2016; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended, sets forth the procedure for such approval; and

WHEREAS, the Authority issues its bonds on behalf of the City of Newport News, Virginia (the "City"), a portion of the facilities to be financed and refinanced with the proceeds of the Bonds are located in the City and the City Council of the City of Newport News, Virginia (the "Council"), constitutes the highest elected governmental unit of the City; and

WHEREAS, the Authority has recommended that the Council approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA:

1. The Council approves the issuance of the Bonds, in an aggregate principal amount up to \$104,000,000, by the Authority for the benefit of the Borrowers, solely to the extent required by Section 147(f) of the Code and Chapter 726 of the Acts of Assembly of 1972, as amended, to permit the Authority to assist in accomplishing the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrowers. In accordance with Chapter 726 of the Acts of Assembly of 1972, as amended, the Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth or any political subdivision thereof (other than the Authority).

3. This resolution shall be in effect on and after the date of its adoption, August 9, 2016.

G. Other City Council Actions

3. Resolution Denying Jurisdictional Approval of Newport News Redevelopment and Housing Authority (NNRHA) Multi-family Housing Revenue Bond Issuance in an Amount Not to Exceed \$16 Million for the Ivy Tower Apartments Project

ACTION: A REQUEST TO APPROVE A RESOLUTION DENYING THE JURISDICTIONAL APPROVAL OF NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY (NNRHA) ISSUANCE OF MULTI-FAMILY HOUSING REVENUE BONDS IN AN AMOUNT NOT TO EXCEED \$16 MILLION (IVY TOWER APARTMENTS).

BACKGROUND:

- Ivy Towers Associates, Limited Partnership desires to acquire and renovate an existing 140-unit apartment complex, known as The Towers Apartments, at 700 Waterfront Circle.
- In order to assist with the financing of the project, Ivy Tower Associates, Limited Partnership sought NNRHA's issuance of the Multi-family Housing Revenue Bonds in an amount not to exceed \$16 million.
- NNRHA approved a resolution at its July 19, 2016 Board meeting for issuance of the bonds for the benefit of Ivy Tower Apartments and held the required public hearing.
- Since NNRHA is the issuer of the bonds and the project is located in Newport News, City Council is required to consider NNRHA's request for approval or denial of the bond issuance.
- However, since the City has been awarded a \$500,000 Choice Neighborhood Initiatives Grant (CNI), we will begin a planning process that will engage citizens in the southeast community to formulate a transformation plan that will serve as a guide for future revitalization efforts.
- The Ivy Towers housing complex is within the boundaries of the CNI planning area and given the City's initiative to develop a transformational, community driven short- and long-range plan, it would be inappropriate to make a long term commitment to the Ivy Towers project.

- I recommend that City Council deny the requested bond issuance.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Issuance of Bonds for Ivy Towers Proj

Attachment 1

Attachment 2

Attachment 3

Attachment 4

sdm14552(a) Issuance of NNRHA Bonds - Ivy Towers Proj

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Resolution Denying Jurisdictional Approval of the Issuance of Multi-Family Housing Revenue Bonds for the Benefit of Ivy Tower Apartments (formerly known as The Towers)

At an official public hearing held on July 19, 2016, the Newport News Redevelopment and Housing Authority (NNRHA) approved an inducement resolution authorizing a bond issuance, in an amount not to exceed \$16 million, on behalf of Ivy Tower Associates, Limited Partnership. The new owners are proposing that the bonds be used to finance the acquisition, construction, rehabilitation and equipping of an 140-unit apartment complex located at 700 Waterfront Circle in the Southeast Community of the City.

For your reference, attached are supporting materials including an excerpt of NNRHA minutes and record of public hearing, NNRHA's Resolution and Fiscal Impact Statement.

Statutory provisions require that the highest elected governmental unit of the locality having jurisdiction over the issuer of tax-exempt, private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve or deny the issuance of the bonds.

The City has been awarded a \$500,000 Choice Neighborhood Initiatives Grant from the Department of Housing and Urban Development. The purpose of the grant is for the City to undertake a planning process that will engage citizens in the southeast community in formulating a transformation plan that will serve as a guide for future revitalization efforts. The development of the transformation plan will enable the City to pursue other grants opportunities and community partnerships to implement the plan. Community engagement and participation is critical to a successful planning process. The Ivy Towers housing complex is within the boundaries of the Choice Neighborhood planning area. Given the City's initiative to develop a

The Honorable City Council

Page 2

Resolution Denying Jurisdictional Approval of the Issuance of Multi-Family Housing Revenue Bonds for the Benefit of Ivy Tower Apartments (formerly known as The Towers)

August 3, 2016

transformational, community driven short- and long-range plan, it would be inappropriate to make a long term commitment to the Ivy Towers project.

It is my recommendation that City Council deny the requested bond issuance.


James M. Bourey

JMB:tfw

Attachments (4)

cc: Karen Wilds, Executive Director, NNRHA
Florence G. Kingston, Director, Department of Development

EXTRACT FROM THE MINUTES OF THE MEETING OF THE BOARD OF COMMISSIONERS OF THE NEWPORT
NEWS REDEVELOPMENT AND HOUSING AUTHORITY
HELD ON JULY 19, 2016

The Board of Commissioners of the Newport News Redevelopment and Housing Authority met in regular meeting at 227-27th Street, Newport News, Virginia, at the hour and date duly established for the holding of such meeting.

The Chairman called the meeting to order and on roll call the following answered present:

Lou Call
Josephine Clark
N. Douglas Burgoyne
George Knight
Bea Berry

* * * *

The following motion was introduced by Chairman Burgoyne, read in full and considered:

A RESOLUTION OF THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY AUTHORIZING ITS INTENTION TO ISSUE TAX-EXEMPT MULTIFAMILY HOUSINGS BONDS IN AN AMOUNT NOT TO EXCEED \$16,000,000 TO FINANCE THE ACQUISITION, REHABILITATION AND EQUIPPING OF APPROXIMATELY 140 MULTIFAMILY RENTAL DWELLING UNITS IN NEWPORT NEWS, VIRGINIA, TO BE KNOWN AS IVY TOWER APARTMENTS, AND FOR RELATED PURPOSES.

Commissioner Berry moved that the foregoing motion be approved, which motion was seconded by Commissioner Knight and upon roll call the "Ayes" and "Nays" were as follows:

AYES

ABSTAIN

Lou Call
Josephine Clark
N. Douglas Burgoyne
George Knight
Bea Berry

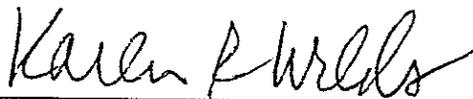
The Chairman thereupon declared said motion carried.

There being no further business to come before the meeting, upon motion duly made and seconded, the meeting was adjourned.

CERTIFICATE OF RECORDING OFFICER

I, Karen R. Wilds, the duly appointed, qualified and acting Secretary-Treasurer of the Newport News Redevelopment and Housing Authority, do hereby certify that the above extract from the minutes of a meeting of the Board of Commissioners of the Authority, held on July 19, 2016 is a true and correct copy of the original minutes of such meeting on file and of record in so far as they relate to the matters set forth in the above extract, and I do further certify that such extract is a true and correct copy of a motion adopted at such meeting and on file and of record.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the Seal of said Authority this nineteenth day of July, 2016.



Karen R. Wilds
Secretary-Treasurer

NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY

SUMMARY OF PUBLIC HEARING

July 19, 2016

Board of Commissioners

**Approval of Issuance of Multifamily Housing Revenue Bonds
for Ivy Tower Limited Partnership**

N. Douglas Burgoyne, Chairman of the Board of Commissioners, read the following statement:

This morning a public hearing is being held to receive comments on the proposed issuance of Newport News Redevelopment and Housing Authority Multi-Family Housing Revenue Bonds for the benefit of Ivy Tower Limited Partnership to facilitate the acquisition, rehabilitation and equipping of Ivy Tower Apartments.

A notice advertising the Public Hearing was posted in the lobby of the Authority located at 227-27th Street, Newport News, VA, Public Housing Management Offices and posted on the website (www.nnrha.com).

I now open this public hearing and invite comments.

Chairman Burgoyne, after asking for questions or discussion and hearing none, declared the hearing closed.

Commissioners present were as follows:

Present

Absent

Lou Call
Josephine Clark
N. Douglas Burgoyne
George B. Knight
Bea Berry

END

Resolution No. __
Series 2016

A RESOLUTION OF THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY DECLARING ITS INTENTION TO ISSUE TAX-EXEMPT MULTIFAMILY HOUSING BONDS IN AN AMOUNT NOT TO EXCEED \$16,000,000 TO FINANCE THE ACQUISITION, REHABILITATION AND EQUIPPING OF APPROXIMATELY 140 MULTIFAMILY RENTAL DWELLING UNITS IN NEWPORT NEWS, VIRGINIA, TO BE KNOWN AS IVY TOWER APARTMENTS, AND FOR RELATED PURPOSES.

WHEREAS, the Newport News Redevelopment and Housing Authority (the "Authority"), was created pursuant to the Virginia Housing Authorities Law (the "Act"), Chapter 1, Title 36, Code of Virginia of 1950, as amended (the "Virginia Code"), and is now existing and operating as a public body corporate and politic; and

WHEREAS, the Act empowers the Authority to issue its notes or bonds in accordance with the provisions of the Act for the purpose of making loans for the prevention and elimination of slum or blighted areas, for assistance in housing construction or rehabilitation by private sponsors and to refund prior obligations issued for any such purposes; and

WHEREAS, the officials of the Authority have been informed by representatives of Ivy Tower Associates, Limited Partnership (the "Owner"), that the Owner intends to acquire, rehabilitate and equip approximately 140 units of multifamily rental housing, to be known as Ivy Tower (formerly known as The Towers) (the "Development"), located in Newport News, Virginia, at 700 Waterfront Circle, Newport News, Virginia 23607; and

WHEREAS, the Owner has estimated that the acquisition, rehabilitation and equipping of the Development will require tax-exempt bond financing in an amount not to exceed \$16,000,000 to finance a portion of the development costs of the Development; and

WHEREAS, the Borrower has applied to the Authority for the issuance of the Authority's Multifamily Housing Revenue Bonds not to exceed \$16,000,000 to be issued to finance the acquisition, rehabilitation and equipping of the aforementioned Development, and pursuant to due notice, the Authority has on this date conducted a public hearing on the application of the Borrower for the issuance of such Bonds in compliance with such requirements of the Internal Revenue Service and the Virginia Code; and

WHEREAS, the Authority has determined that providing financing for the Development is consistent with the policy and purpose of the Act and the Virginia Code; and

WHEREAS, The Bonds will not be general obligations of the Authority but will be special obligations secured by and payable solely from sources identified in the trust indenture relating to the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the Authority as follows:

1. The Authority does hereby declare that it intends to authorize the issuance of the Bonds under and in accordance with the applicable laws of the United States of America and the Commonwealth of Virginia (the "State") in an aggregate principal amount not to exceed \$16,000,000, upon such terms and conditions as may be agreed upon by the Authority, the Owner and the purchaser of the Bonds; provided, however, that the issuance of such Bonds shall not require the utilization of private activity volume cap pursuant to Section 146 of the Internal Revenue Code of 1986, as amended, in excess of \$16,000,000. The Bonds will not be general obligations of the Authority but will be special obligations, secured by and payable solely from sources identified in the trust indenture relating to the Bonds.

2. The Chairman or Vice Chairman of the Board of Commissioners of the Authority, or the Executive Director of the Authority (collectively referred to herein as the "Authorized Officer") are hereby authorized to enter into an Inducement Agreement with the Owner in substantially the form submitted to the Authority, which is hereby approved, with such changes therein not inconsistent with this resolution and not substantially adverse to the Authority as may be permitted by the Act and approved by the Authorized Officer executing the same on behalf of the Authority. The approval of such changes by said Authorized Officer, and that such are not substantially adverse to the Authority, shall be conclusively evidenced by the execution of such Inducement Agreement by such officer. Subsequent to the execution of the Inducement Agreement, an Authorized Officer is further authorized to enter into amendments or supplements to the Inducement Agreement from time to time without any further action of the Board of Commissioners of the Authority.

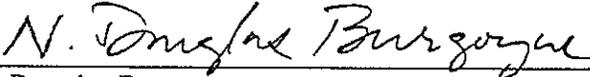
4. The Authorized Officer is further hereby authorized to publish or cause to be published a notice of public hearing with respect to the issuance of the Bonds and to take any and all further action and execute and deliver any and all other documents as may be necessary or appropriate to authorize, issue and deliver the Bonds and to effect the undertaking for which the Bonds are to be issued.

3. The Authority finds, intends and declares that this resolution shall constitute its official intent to issue the Bonds for the Development pursuant to the laws of the State in an amount not to exceed \$16,000,000 and to make such proceeds available to finance the costs of the Development and the expenses in connection with the issuance of the Bonds. The Authority finds, considers and declares that the issuance and sale of the Bonds for the purpose set forth in this resolution will be appropriate and consistent with the objectives of the laws of the State, including the Act, and that the adoption of this resolution is and constitutes the declaration of official intent by the Authority towards the issuance of the Bonds within the meaning of Section 1.150-2 of the United States Treasury Regulations.

[Remainder of page intentionally left blank]

4. This resolution is not intended to be a binding commitment of the Authority to issue the Bonds. The financing described herein is subject to (a) approval by the Authority of a bond resolution authorizing the issuance of such Bonds, (b) approval by the Authority of the financing terms and (c) receipt by the Authority of an opinion of Peck, Shaffer & Williams, A Division of Dinsmore & Shohl LLP, as bond counsel, that, subject to certain exceptions, interest on such Bonds is excludable from the gross income of the owners thereof for federal income tax purposes.

Adopted this 19 day of July, 2016.



N. Douglas Burgoyne
Chairman

SEAL

ATTEST:



Name: TERESA G. BENNETT
Title: Exec. Admin. Assistant

FISCAL IMPACT STATEMENT

Date: July 22, 2016

Applicant: Ivy Tower Associates, Limited Partnership

Facility: Ivy Tower
700 Waterfront Circle
Newport News, Virginia 23607

1. Maximum amount of financing sought \$16,000,000
2. Estimated taxable value of the facility's real property to be constructed in the locality \$4,704,000
3. Estimated real property tax per year using present tax rates \$ 57,388.80
4. Estimated personal property tax per year using present tax rates \$ 1,317.02
5. Estimated merchants' capital tax per year using present tax rates \$
6.
 - a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality: Year 1 & 2- total of \$5,066,800; Annual operating amount of \$26,000
 - b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality: Year 1 & 2- total of \$200,000; Annual operating amount of \$28,000
 - c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality: Year 1 & 2- total of \$3,411,200; Annual operating amount of \$889,418
 - d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality: Year 1 & 2- total of \$100,000; Annual operating amount of \$0
7. Estimated number of regular employees on year round basis: 4
8. Average annual salary per employee \$43,238

Information contained in this statement is based solely on facts and estimates provided by the applicant and Newport News Redevelopment and Housing Authority has made no independent investigation with respect thereto.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA DENYING JURISDICTIONAL APPROVAL OF THE ISSUANCE BY THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY OF ITS MULTIFAMILY HOUSING REVENUE BONDS FOR THE BENEFIT OF IVY TOWER APARTMENTS (FORMERLY KNOWN AS THE TOWERS) LOCATED IN THE CITY OF NEWPORT NEWS, VIRGINIA.

WHEREAS, the Newport News Redevelopment and Housing Authority (the "Authority"), has considered the application of Ivy Tower Associates, Limited Partnership (the "Company") requesting the issuance of the Authority's housing revenue bonds in an amount not to exceed \$16,000,000 (the "Bonds") to assist in financing the acquisition, rehabilitation and equipping of the multifamily residential facility for families and individuals of low and moderate income located in the City of Newport News, Virginia and to be known as Ivy Tower (formerly known as The Towers) (the "Project"), and has held a public hearing regarding the project on July 19, 2016; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the area in which the Project to be financed is located must approve the issuance of the Bonds; and

WHEREAS, the Authority issues its bonds on behalf of the City of Newport News, Virginia (the "City") and the Project is located in the City; and

WHEREAS, the Authority, as the issuing governmental unit with respect to the Bonds, has no applicable elected representative, the City constitutes the next highest governmental unit with such a representative, and the members of the City Council of the City of Newport News (the "Council") constitute the applicable elected representatives of the City; and

WHEREAS, the Authority has recommended that the Council approve the issuance of the Bonds; and

WHEREAS, a public hearing was held by the Authority and an affidavit of publication of notice of such public hearing has been submitted to the Council and such notice apprised the residents of the City of Newport News of the public hearing with respect to the Bonds, in compliance with all legal requirements, including Section 147(f) of the Code and the public hearing was conducted in a manner which provided a reasonable opportunity for persons with differing views on the Project to be heard, and a copy of the Authority's resolution approving the issuance of the Bonds has been filed with the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA:

1. The Council hereby finds and determines that Ivy Towers is within the geographical area of the City's Choice Neighborhood Initiative, the planning for which has recently been funded by a grant from the U. S. Department of Housing and Urban Development and it finds that the long term commitment represented by the proposed Bond Issue is, therefore, inappropriate.

2. The Council does not approve the issuance of the Bonds by the Authority for the benefit of the Company, as required by Section 147(f) of the Code, Section 15.2-4906, as applicable to housing authorities, of the Code of Virginia of 1950, as amended (the "Virginia Code") and Section 36-19(9) of the Virginia Code to permit the Authority to assist in the financing of the Project.

3. The denial of jurisdictional approval of the issuance of the Bonds does not constitute an endorsement, or lack thereof, to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Company.

4. The Bonds, if issued, shall provide that neither the City nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged thereto and that neither the faith and credit nor the taxing power of the City or the Authority is pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto.

5. In adopting this resolution denying jurisdictional approval of issuance of the Bonds, the City, including its elected representatives, officers, employees and agents, shall not be liable for, and hereby disclaim all liability for, any damages to any person, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

6. This resolution shall be in effect on and after the date of its adoption, August 9, 2016.

H. Appropriations

ACTION:

A REQUEST FOR A MOTION OF CITY COUNCIL TO APPROVE AS A BLOCK THE FOLLOWING APPROPRIATIONS.

1. Department of Libraries and Information Services -
Neisser Bequest: Main Street Library - \$9,217
2. Department of Public Works - FY 2017 Additional State Revenue for Street and Highway Maintenance:
Residential Street Reconstruction/Resurfacing Contracts - \$302,276
3. Department of Parks, Recreation and Tourism - FY 2016 Capital Improvements Plan (CIP): Various Construction Projects, Renovations and Repairs of Parks and Recreation Facilities and Amenities - \$850,000
4. Department of Development - FY 2016 Bond Authorization: Southeast Community Redevelopment Initiatives - \$1,500,000
5. Waterworks Department - FY 2016 Capital Improvements Plan (CIP): Beach Road 12-Inch Dip Waterline Replacement Project - \$3,600,000

H. Appropriations

1. Department of Libraries and Information Services - Neisser Bequest: Main Street Library - \$9,217

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$9,217 OF INTEREST EARNED IN FY 2016 FROM THE NEISSER BEQUEST TO THE NEWPORT NEWS DEPARTMENT OF LIBRARIES AND INFORMATION SERVICES FOR THE MAIN STREET LIBRARY

BACKGROUND:

- On April 12, 2005, Dr. Herbert H. Neisser left a bequest of approximately \$2 million to the Main Street Library.
- The adopted guidelines state that 85% of the interest earned each year is to be used for projects that directly benefit the Main Street Library, with the remaining 15% returned to the endowment.

FISCAL IMPACT:

- Interest earned in FY 2016 was \$10,844, making \$9,217 available to the Main Street Library.
- No local funds are required for this appropriation.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re Neisser Bequest Interest

sdm14572 Appropriation re Neisser Request Interest

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

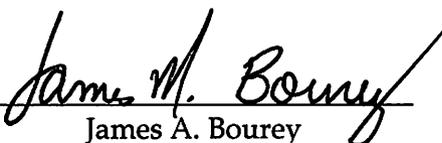
August 3, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Neisser Interest Funds

Dr. Herbert H. Neisser left a bequest of approximately \$2 million to the Main Street Library of the Newport News Public Library System. On April 12, 2005, City Council formally acknowledged and accepted all distributions to be made from the Herbert H. Neisser Revocable Trust and the Neisser Irrevocable Charitable Remainder Trust. The Library Board of Trustees developed guidelines for the use of the bequest. On July 10, 2007 City Council acknowledged the Guidelines and directed the City Manager and Treasurer to apply the Guidelines in the course of the management and investment of the trust funds.

The adopted Guidelines state that 85% of the interest earned each year is to be used for projects that directly benefit the Main Street Library with the remaining 15% returned to the endowment. For Fiscal Year 2016, \$10,844 in interest was earned. Based on these Guidelines, \$9,217 is available for disbursement. The Director of Libraries recommends \$7,835 for youth programming and training; and \$1,382 to fund the Neisser Speaker Series.

I recommend approval of the resolution to distribute \$9,217 in FY 2016 interest earned from the Herbert H. Neisser bequest to the Main Street Library in accordance with the recommendations of the Library Board of Trustees. No other local funds are required for this resolution.


James A. Bourey

JMB:ic

cc: Alan Archer, Assistant City Manager
Marty Eubank, Treasurer
Tom Mitchell, Director, Department of Finance
Lisa Cipriano, Director, Department of Budget
Izabela Cieszynski, Director, Department of Libraries
Collins L. Owens, Jr., City Attorney

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM NEISSER BEQUEST INTEREST REVENUE TO NEISSER BEQUEST - TRAINING AND NEISSER BEQUEST - SPEAKER SERIES.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

That it hereby appropriates funds from Neisser Bequest Interest Revenue to Neisser Bequest - Training and Neisser Bequest - Speaker Series, as follows:

Appropriation From:

Neisser Bequest Interest Revenue 2650-000-38-3891-481000-000000-0000- 38B17-38B17	\$	7,835.00
2650-000-38-3891-481000-000000-0000- 38B27-38B27	\$	1,382.00

Appropriation To:

Neisser Bequest - Training 2650-000-38-3890-555040-000000-0000- 38B17-38B17	\$	7,835.00
Neisser Bequest - Speaker Series 2650-000-38-3890-530100-000000-0000- 38B27-38B27	\$	1,382.00

H. Appropriations

2. Department of Public Works - FY 2017 Additional State Revenue for Street and Highway Maintenance: Residential Street Reconstruction/Resurfacing Contracts - \$302,276

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$302,276 OF ADDITIONAL FY 2017 STREET AND HIGHWAY MAINTENANCE STATE REVENUE TO THE DEPARTMENT OF PUBLIC WORKS FOR RESIDENTIAL STREET RECONSTRUCTION/RESURFACING CONTRACTS AND RIGHT OF WAY MAINTENANCE.

BACKGROUND:

- The City has been notified that FY 2017 State revenue for Street and Highway maintenance will be \$302,276 more than estimated.
- The additional funds will be appropriated to Public Works' General Fund operating budget which is the Department that will oversee the contracts and work.
- Subsequently, the funds will be moved to the Street/Highway Maintenance Fund which is required by state accounting practices to be in a separate fund.

FISCAL IMPACT:

- No other local funds are required for this resolution.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re VDOT FY17 Add'l Revenue for Streets

sdm14575 Appropriation re VDOT FY2017 Street Highway Maintenance Fund

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Appropriation Resolution for Street/Highway Maintenance Funds

The Virginia Department of Transportation (VDOT) annually funds local street and highway maintenance programs based on the number of qualified lane miles within a City. The State has notified the City that the original estimate for the FY 2017 Street/Highway Maintenance Funds will be increased. This unanticipated increase is estimated at \$302,276 over the current budgeted amount of \$16,584,585. The total amount to be collected from the State in FY 2017 for street maintenance is \$16,886,861.

It is requested that this additional funding be appropriated to supplement this fiscal year's residential reconstruction/resurfacing contract and efforts. This extra State funding will allow for additional residential reconstruction/resurfacing on those roads considered to be of greatest need by the Department of Public Works.

The State requires that the Street/Highway Maintenance Funds be accounted for in a separate fund. To do so, the initial revenue receipt and the qualified expenditures are made in the General Fund because the work is overseen by the Department of Public Works. When revenue and expenditures are certified by the State as qualified for reimbursement, they are then transferred to the separate Street/Highway Maintenance Fund. It is requested that each fund be increased by the anticipated amount in order to keep both funds in balance for FY 2017.

Approval of this resolution is recommended.


James M. Bourey

JMB:jlh

cc: H. Reed Fowler, Jr., Director, Department of Public Works

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING REVENUE TO FORCE ACCOUNT-STREET/HIGHWAY MAINTENANCE GENERAL FUND REVENUE AND STREET/HIGHWAY MAINTENANCE FUND AND APPROPRIATING EXPENDITURES TO CONTRACTUAL PAVING/PUBLIC WORKS DEPARTMENT AND STREET/HIGHWAY MAINTENANCE FUND QUALIFIED ASPHALT/RESURFACING.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

That it hereby appropriates revenue to Force Account-Street/Highway Maintenance General Fund Revenue and Street/Highway Maintenance Fund and appropriates expenditures to Contractual Paving/Public Works Department and Street/Highway Maintenance Fund Qualified Asphalt/Resurfacing, as follows:

Appropriation Revenue To:

Force Account-Street/Highway Maintenance General Fund Revenue 1000-100-00-0000-418307	\$	302,276.00
Street/Highway Maintenance Fund 2510-000-30-0000-427501	\$	302,276.00

Appropriation Expenditures To:

Contractual Paving/Public Works Department 1000-250-31-3125-530200	\$	302,276.00
Street/Highway Maintenance Fund Qualified Asphalt/Resurfacing 2510-000-30-0000-558611	\$	302,276.00

H. Appropriations

3. Department of Parks, Recreation and Tourism – FY 2016 Capital Improvements Plan (CIP): Various Construction Projects, Renovations and Repairs of Parks and Recreation Facilities and Amenities – \$850,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$850,000 FROM THE FY 2016 CAPITAL IMPROVEMENTS PLAN (CIP) TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM FOR VARIOUS CONSTRUCTION PROJECTS, RENOVATIONS AND REPAIRS OF PARKS AND RECREATION FACILITIES AND AMENITIES.

BACKGROUND:

- CIP funds in the Parks and Recreation category are designated for various construction projects, renovations and repairs of parks and recreation facilities and amenities.
- The FY 2016 CIP funds are requested for dredging boat channels and refurbishment of selected tennis courts.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Parks & Rec CIP Appropriation

sdm14577 Appropriation re 2016 CIP - Parks and Recreation

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council
FROM: The City Manager
SUBJECT: FY 2016 CIP Appropriation - Parks & Recreation Improvements

The Department of Parks, Recreation & Tourism has requested \$850,000 in Capital Improvements Plan (CIP) funding to accomplish several major park and recreation facility repair and replacement projects. These projects need to be undertaken to address public safety, usability and access issues at various parks and recreational facilities. The projects include:

- Provide maintenance dredging of the boat channels leading from Huntington Park and Anderson Park (Peterson's Yacht Basin);
- Refurbish the tennis courts at King-Lincoln Park and other selected City locations.

The total funding needed to complete this work, \$850,000, is currently available through bonds authorized, but unappropriated in the Parks and Recreation category of the FY 2016 CIP. Given our desire to ensure that our parks and recreation facilities are well-maintained, and continue to be seen and serve as assets to the community, I recommend Council's support of the FY2016 CIP funding request for the noted improvements.


James M. Bourey

JMB:mdp

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED TO PARKS AND RECREATION IMPROVEMENTS.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

That it hereby appropriates funds from Bonds Authorized and Unissued to Parks and Recreation Improvements, as follows:

Appropriation From:

Bonds Authorized and Unissued 4104-350-70-700F-579000-000000-2016- 00000-F0000	\$ 850,000.00
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Appropriation To:

Parks and Recreation Improvements 4104-350-70-700F-579420-000000-2016- 00000-F2709	\$ 850,000.00
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H. Appropriations

4. Department of Development – FY 2016 Bond Authorization: Southeast Community Redevelopment Initiatives – \$1,500,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$1,500,000 FROM THE FY 2016 BOND AUTHORIZATION FOR THE SOUTHEAST COMMUNITY REDEVELOPMENT INITIATIVES

BACKGROUND:

- Numerous redevelopment activities have been undertaken to complement the investments already made in the southeast community.
- The first milestones of the Brooks Crossing Project have been reached, with both the South Police Precinct and Jim's Local Market operational, and two phases of infrastructure nearing completion.
- We will move to implementing the final phase of infrastructure, utility upgrading, relocation and undergrounding and installation of light poles, vital to attracting private investment.

FISCAL IMPACT:

- It is requested that the remaining \$1.5 million in the FY 2016 Bond Authorization, Community Development Category be appropriated for continued project investment in the Southeast Community.
- The City Manager recommends approval.

ATTACHMENTS:

Description

CM Memo re SE Community Redevelopment Initiatives

sdm14578 Appropriation re SE Community Redevelopment Initiative

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council

FROM: City Manager

SUBJECT: Appropriation for Southeast Community Redevelopment Initiatives

The first milestones of the Brooks Crossing Project have been reached, with both the South Police Precinct and Jim's Local Market operational and two phases of infrastructure nearing completion. We will continue to advance the Brooks Crossing Project, implementing the final phase of infrastructure, utility upgrading, relocation and undergrounding and installation of light poles, vital to the ability to attract private investment. To assure continued momentum in the Southeast Community, this funding will also facilitate Newport News Redevelopment and Housing Authority (NNRHA) activities in Jefferson Park and the 2500 block of Jefferson Avenue, as well as provide support to planning activities currently being developed in connection with the City's successful pursuit of the 2016 Choice Neighborhoods Initiative Planning Grant.

This strategy of anticipating funding for necessary public infrastructure and other redevelopment activities through our Capital Improvements Plan (CIP) has been fundamental to our success in the Southeast Community. The FY 2016 Bond Authorization, Southeast Community Redevelopment Category, has \$1.5 million remaining to be appropriated for project investment.

I recommend appropriation of \$1.5 million in support of continuing the City's strategic focus on economic development and redevelopment opportunities in this vital part of the City.


James M. Bourey

JMB:zml

cc: Lisa J. Cipriano, Director, Department of Budget and Evaluation
Florence G. Kingston, Director, Department of Development

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED TO SOUTHEAST COMMUNITY REDEVELOPMENT INITIATIVES.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

That it hereby appropriates funds from Bonds Authorized and Unissued to Southeast Community Redevelopment Initiatives, as follows:

Appropriation From:

Bonds Authorized and Unissued 4104-400-70-700A-579000-000000-2016- 00000-A0000	\$ 1,500,000.00
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Appropriation To:

Southeast Community Redevelopment Initiatives 4104-400-70-700A-579420-000000-2016- 00000-A1909	\$ 1,500,000.00
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H. Appropriations

5. Waterworks Department – FY 2016 Capital Improvements Plan (CIP): Beach Road 12-Inch Dip Waterline Replacement Project – \$3,600,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$3,600,000 FOR ENGINEERING AND CONSTRUCTION SERVICES ASSOCIATED WITH THE BEACH ROAD 12-INCH DIP WATERLINE REPLACEMENT.

BACKGROUND:

- The Project involves replacing an existing 8-inch cast iron pipe originally installed in 1938 which will help provide additional water flow to the Fox Hill Area in Hampton.
- This project is included in the Capital Improvements Plan (CIP) for the Waterworks Department previously approved by City Council.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

CM Memo re Beach Rd Waterline Replacement Proj
sdm14576 Appropriation re Beach Road Waterline

CITY OF NEWPORT NEWS

OFFICE OF THE CITY MANAGER

August 3, 2016

TO: The Honorable City Council
FROM: City Manager
SUBJECT: Beach Road 12-Inch DIP Waterline Replacement Project

The Waterworks Department requests City Council to appropriate funds in the amount of \$3.6 million for the construction of the Beach Road 12-Inch DIP Waterline Replacement Project.

This replacement pipe along Beach Road will replace an existing 8-inch cast iron pipe originally installed in 1938. This project will provide additional flow to the Fox Hill Area in Hampton and permit the dismantling and removal of the obsolete elevated water storage tank currently located on Beach Road. This will save the City the expense of removing, reconstructing, and maintaining a new elevated storage tank located in the Fox Hill Area. The removal of this elevated storage tank will provide an improved condition for all customers along Beach Road, and the Fox Hill Area in Hampton.

The scope of the Beach Road 12-Inch DIP Waterline Replacement is as follows: Construct approximately 10,000 linear feet of 12-inch diameter, 315 linear feet of 8-inch, 100 linear feet of 4-inch ductile iron pipe, 10 linear feet of 2-inch PVC water main, and 30 linear feet of 24 inch steel casing by jack and bore installation along Salt Pond Road, Revere Drive, and Beach Road, placement of 14 fire hydrant assemblies, 28 valves, 3 tapping sleeves and valves, and 140 service line transfers. Abandonment of approximately 7,500 linear feet of 8", 4", and 2" water mains, removal of 10 fire hydrant assemblies, and 18 valves.

The Waterworks Department received three bids for the construction project on July 12, 2016. It is anticipated that the project will be awarded by the Office of Purchasing to the low bidder.

The Honorable City Council
Page 2
Beach Road 12-Inch DIP Waterline Replacement Project
August 3, 2016

The Waterworks Department will provide on-site construction administration services and site inspections for this contract. Waterworks also will provide review of submittals as part of these construction administration services.

It is estimated that \$3.6 million will be required to fund the construction project, as shown in the following breakdown:

Construction	\$3,199,295
Contingency	<u>\$400,705</u>
TOTAL	\$3,600,000

This project is included in the FY 2016 Capital Improvements Plan (CIP) for the Waterworks Department previously approved by City Council.

I recommend approval.


James M. Bourey

JMB:WW

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING FUNDS FROM BOND PROCEEDS GENERAL OBLIGATION BONDS TO CONSTRUCTION AND CONTINGENCIES.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

That it hereby appropriates funds from Bond Proceeds General Obligation Bonds to Construction and Contingencies, as follows:

Appropriation From:

Bond Proceeds General Obligation Bonds

6001-600-41-0000-400100-000000-
0000-00000

\$ 3,600,000.00

Appropriation To:

Construction

6001-600-41-4173-579708-417341-0000-
00000-P2006

\$ 3,199,295.00

Contingencies

6001-600-41-4173-579700-417341-0000-
00000-P2006

\$ 400,705.00

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

J. New Business and Councilmember Comments

City Manager
City Attorney
City Clerk

Cherry
Harris
Price
Scott
Vick
Woodbury
Bateman

K. Adjourn

***THE BUSINESS PORTION OF THE MEETING WILL BE CONCLUDED NO LATER THAN 10:00 P.M. TO ALLOW PERSONS TO ADDRESS CITY COUNCIL UNDER "CITIZEN COMMENTS ON MATTERS GERMANE TO THE BUSINESS OF CITY COUNCIL."**