

DATE: SEPTEMBER 30, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: VICE MAYOR REDELLA S. "DEL PEPPER"
COUNCILMAN LUDWIG P.GAINES

SUBJECT: CONSIDERATION OF A REQUEST FOR AN INDEPENDENT
INQUIRY OF ACTIONS RELATED TO THE NORFOLK SOUTHERN
ETHANOL TRANSLOADING FACILITY

ISSUE: City Council consideration of a request for an independent inquiry of City staff actions related to the site location, all aspects of the construction process, and the eventual opening and operation of the Norfolk Southern Ethanol Transloading Facility. This inquiry should include all City departmental input related to the site and the facility.

RECOMMENDATION: That City Council authorizes an independent inquiry into City staff actions related to the Norfolk Southern Ethanol Transloading Facility as described above. The independent inquiry will be lead by Vice-Mayor Del Pepper and Councilman Ludwig Gaines who currently serve as co-chairs of the (Alexandria) Norfolk Southern Community Monitoring Group (NSCMG.) To help bring focus to the independent inquiry, Vice-Mayor Pepper and Councilman Gaines will serve as the principal liaisons to the independent third party reviewer and will seek guidance from the NSCMG in the initial stage of the inquiry as they select specific issues for review, develop a serious of questions and frame a report format.

BACKGROUND & DISCUSSION: In April 2008, the Norfolk Southern Corporation began an ethanol transloading operation at its intermodal facility located in the City's West End. Although City staff had knowledge of the impending operation, months in advance, neither City Council nor potentially affected communities near the facility received notification. On May 15, 2008, City Manager James Hartmann sent a memo to Council advising of the ethanol transloading operation. After notification about the ethanol operation, Council received numerous inquiries from the community, including requests for the release of information associated with the ethanol operation. Subsequently, the staff made public hundreds of emails dating between June 20, 2006 and June 23, 2008, and, on June 16, 2008, launched an ethanol information page on the City's website. In addition to these steps, City Manager Jim Hartmann appointed Steve Mason, Special Assistant to the City Manager, to serve as the primary contact to the community on the transloading issue. The City Council established the Norfolk Southern Community Monitoring Group ("NSCMG") to support the City's actions to shutdown the ethanol transloading facility, to track the progress of ongoing regulatory, legal, and permit activities; and to keep the wider stakeholder community informed about its work.

The management of the ethanol transloading facility opening makes it clear the City did not **meeting meet** acceptable standards for transparency and accountability. In order to address community concerns and ensure our government is ready to meet the challenges

ahead, it is critical that we conduct an independent third party review of this situation to ascertain whether or not the Council and community have all the necessary information to understand what happened.

We recommend the following for Council's consideration:

- Authorize Vice-Mayor Pepper and Councilman Gaines, to direct the activities of the independent reviewer in consultation with the NSCMG. Due to **personal personnel** confidentiality reasons, Vice-Mayor Pepper, Councilman Gaines, and the independent reviewer will protect employee confidentiality.
- Authorize Vice-Mayor Pepper and Councilman Gaines, in consultation with the NSCMG, to develop for Council's consideration, the necessary qualifications for a candidate that would be best suited to conduct such an inquiry, as well as recommend the scope of the work that is to be covered.
- Authorize Vice-Mayor Pepper and Councilman Gaines, in consultation with the NSCMG to review the candidates' applications and make a recommendation for Council's final approval.
- The City staff shall provide the independent reviewer access to all relevant information, including information produced because of FOIA requests and make available for interview City employees and Council members. He/She should have access to other applicable documents, such as results of the City Manager's consultant efforts.
- Due to personnel confidentiality reasons, some information may need to be summarized. All identifiable employee information will remain confidential.
- Set November 30, 2008, as the report completion date.

~~**FISCAL IMPACT: The fiscal impact of undertaking this inquiry would be funding for an independent reviewer. We recommend that an initial sum of up to \$10,000 be designated in contingent reserves. Any additional funding for the inquiry shall be docketed for consideration by Council. Council places a \$20,000 limit on this expenditure.**~~ (THIS DID NOT GET ADOPTED) **Council said:** City Council agreed to exclude the fiscal impact until a third party reviewer has been decided upon by Vice Mayor Pepper, Councilman Gaines and the NSCMG and a budgetary statement will come before Council for consideration and final approval.

ATTACHMENTS:

Attachment I: Letter from Ingrid Sanden, President, Cameron Station Civic Association

Attachment II: Letter from John Sullivan, President, Cameron Station Community Association

Attachment III: Letter from Geoffrey M. Goodale, President, Brookville-Seminary Valley Civic Association, Inc.

