

A RESOLUTION NO. 2004-R40

To express the opposition of the Council of the City of Richmond to the provisions of the USA PATRIOT Act and to direct that certain actions be taken to express this opposition.

Patron – Vice-Mayor McQuinn, Rev. Hedgepeth,
Mrs. Robertson, and Mayor McCollum

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MARCH 8, 2004 – 6:00 P.M.

WHEREAS, the Council of the City of Richmond is committed to upholding the United States Constitution and its Bill of Rights; and

WHEREAS the preservation of civil rights and liberties is essential to the well-being of a democratic society;

WHEREAS, the City of Richmond has a long history of working to obtain and preserve the civil rights and liberties of its residents; and

WHEREAS, the City has a diverse and multi-ethnic population and everyday embraces the richness of community that includes immigrants, whose contributions to the City are vital to its economy, culture and civic character; and

WHEREAS, the Council is proud of the cooperative work among federal, state and local law enforcement officials to protect the safety of the citizens of the City; and

WHEREAS, the federal, state and local government actions designed to protect the public from terrorist attacks, such as those that occurred on September 11, 2001, must be taken in a rational and deliberative fashion to ensure that any new security measure intended to enhance public safety does not impair constitutional rights or infringe on civil liberties; and

WHEREAS, this nation's need to respond to the terrible events of September 11, 2001, and to protect itself from future acts of terrorism, does not diminish the commitment of the City or its residents, regardless of their personal circumstances, to the Constitutional rights and liberties that are the precious entitlement of all; and

WHEREAS, the Council believes there is no inherent conflict between national security and the preservation of liberty—that Americans can be both safe and free; and

WHEREAS, it has been stated that federal laws, regulations, policies, and practices adopted since September 11, 2001, including provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Public Law 107-56 (the “USA PATRIOT” Act), and related Executive Orders, regulations and actions:

(a) Authorize the indefinite incarceration of non-citizens to solitary confinement, based upon mere suspicion, without being charged with any crime, without counsel, and without a right to be heard;

(b) Authorize the indefinite incarceration of citizens by the President based upon unspecified standards as “enemy combatants” to solitary confinement, without being charged with a crime, without counsel, and without a right to be heard;

(c) Authorizes the indefinite detention of citizens and non-citizens in solitary confinement as “material witnesses,” without counsel, and without a right to be heard;

(d) Limit the traditional authority of the federal courts to curb law enforcement abuses including electronic surveillance;

(e) Limit the judicial oversight of federal “sneak and peek” searches and eliminate timely notice to the person who is subject of the search that his or her property has been searched;

(f) Grant broad governmental access to personal medical, financial, library, and educational records without judicial oversight;

(g) Inhibit free speech and free association by defining any person or group as a terrorist, or an act as terrorism, without articulating the basis for the characterization or giving the person or group so characterized a right to be heard;

(h) Encourage local and state law enforcement personnel to enforce federal immigration laws, and to use those laws as a pretext for detention of, and denial of due process to, persons who are not reasonably suspected of criminal behavior; and

(i) Permit government surveillance of public meetings, including religious services, Internet chat rooms, holiday gatherings, and political rallies without judicial oversight; and

WHEREAS, draft federal legislation, known as the Domestic Security Enhancement Act (“DSEA” or “Patriot II”), purportedly contains many new and sweeping provisions that further expand government surveillance authority, increase government secrecy, reduce governmental accountability, erode the separation of powers essential for Constitutional checks and balances, and diminish the right of all persons to the due process of law guaranteed by the Constitution.

NOW THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF RICHMOND:

That the Council:

1. Affirms its strong support for fundamental constitutional rights and its opposition to federal measures that infringe on civil liberties;

2. Affirms its strong support for the rights of immigrants and opposes measures that single out individuals for legal scrutiny or enforcement activity based solely on their country of origin;

3. Directs the City Manager to cause the Department of Police to ensure that it protects the constitutional rights of residents of the city of Richmond and that it maintains a relationship of trust with those it is sworn to serve and protect;

4. Directs public libraries in the City to promote unfettered access to information, which is the collective heritage of humanity and which is a fundamental human right, and to protect freedom of inquiry, universally recognized as a driving force for the progression of civilization itself, by:

A. Posting this notice to library users “WARNING: Under Section 215 of the federal ‘USA PATRIOT’ Act (Public Law 107-56), records of the books and other materials you borrow may be obtained by federal agents. That federal law prohibits librarians from informing you if records about you have been requested or obtained by federal agents. Questions about this policy should be directed to: Attorney General John Ashcroft, US Department of Justice, Washington DC 20530;” and

B. Ensuring there is regular destruction, in conformance with applicable law, of records that identify a book borrower after a book is returned, or that identify the name of an Internet user after use;

5. Recommends that local businesses and institutions in the City, and in particular booksellers, notify consumers that purchase records are subject to disclosure to federal law enforcement agencies;

6. Directs the City Manager to ensure that, to the extent legally possible, no City resources—including law enforcement funds and educational administrative resources—may be used for unconstitutional activities, including but not limited to monitoring the exercise by political or religious groups of their First Amendment rights of expression, association, assembly, or petition or obtaining library, bookstore or website activity records without proper authorization without notice to the subjects of the records; and

7. Directs the City Clerk to:

A. Send a copy of this resolution to Governor of Virginia Mark Warner with a letter urging him to ensure that state anti-terrorism laws and policies be implemented in a manner that does not infringe on personal rights, liberties and due process; and

B. Send a copy of this resolution to Senators John Warner and George Allen, and Congressmen Robert Scott and Eric Cantor, accompanied by a letter asking that the resolution be read into the record, on the floor, and urging Congress to assess the impact of the “USA PATRIOT” Act and federal anti-terrorism efforts; to work to repeal provisions of the “USA PATRIOT” Act and other laws, regulations, policies and practices that infringe on personal rights, liberties and due process; and to ensure that no provision of the “USA PATRIOT” Act originally intended to expire remains in effect past its sunset date.

BE IT FURTHER RESOLVED:

That the provisions of this resolution shall be severable, and if any phrase, clause, sentence, or provision of this resolution is declared by a court of competent jurisdiction to be

contrary to the Constitutions or laws of the United States or of the Commonwealth of Virginia,
the validity of the remainder of this resolution shall not be affected thereby.