

December 15, 2009

The second regular December Meeting of City Council was held on December 15, 2009 at 7:00 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: Ruby B. Archie, L. G. "Larry" Campbell, Jr., T. David Luther, Gary P. Miller, Vice-Mayor T. Wayne Oakes, Albert K. "Buddy" Rawley, Jr., Mayor Sherman M. Saunders, Fred O. Shanks, III, and Adam J. Tomer (9).

Staff Members present were: City Manager M. Lyle Lacy, III, Deputy City Manager Joseph C. King, City Attorney W. Clarke Whitfield, Jr. and City Clerk Annette Y. Crane, CMC.

Other Staff Members present were Transportation Services Director Marc Adelman, Public Works Administrative Services Director Barry Doebert, Finance Director Barbara Dameron, Community Development Director Jerry Fischer, Planning Director Kenny Gillie, Housing and Development Director Dianne Morris, and Economic Development Director Jeremy Stratton.

Mayor Saunders presided.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Rawley offered the Invocation. The Pledge of Allegiance to the Flag followed.

MINUTES

Upon Motion by Council Member Vice-Mayor Oakes and second by Council Member Campbell, Minutes of the December 1, 2009 Regular Meeting of City Council were approved as presented. Draft copies were distributed to Council Members prior to the Meeting.

PUBLIC HEARING - FY 2010 - BUDGET APPROPRIATION AMENDMENTS

Mayor Saunders announced the following budget amendments had been previously discussed by City Council and introduced for First Reading and would be further considered in the Public Hearing. After the Public Hearing was closed, there would be no separate discussion on the item and the items would be enacted by one motion. If a Council Member or citizen desired discussion on an item(s), it would be removed from the consent process and considered separately.

Mayor Saunders opened the floor for a Public Hearing to consider amendments to the FY 2010 Budget Appropriation Ordinance. Notice of the Public Hearing had been published in the Danville Register and Bee on December 7, 2009. No one present desired to be heard and the Public Hearing was closed.

Upon Motion by Council Member Luther and second by Council Member Tomer, Ordinance No. 2009-12.01 presented by its First Reading on December 1, 2009 amending the Fiscal Year 2010 Budget Appropriation Ordinance for projects to be undertaken within the City and to be financed anticipating revenues from the Virginia

December 15, 2009

Department of Transportation (VDOT) Revenue Sharing Program funds in the amount of \$800,000 was adopted by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

Upon Motion by Council Member Luther and second by Council Member Tomer, Ordinance No. 2009-12.02 presented by its First Reading on December 1, 2009 amending the Fiscal Year 2010 Budget Appropriation Ordinance to provide for additional Federal Transit Administration American Recovery and Reinvestment Act Mass Transit Funding for the purpose of capital projects related to the Danville Transit System in the amount of \$717,290 and appropriating same was adopted by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

Upon Motion by Council Member Luther and second by Council Member Tomer, Ordinance No. 2009-12.03 presented by its First Reading on December 1, 2009 amending the Fiscal Year 2010 Budget Appropriation Ordinance to provide for State Aviation funding for the purpose of demolishing the Advance Auto building property located directly across from the Danville Regional Airport in the amount of \$14,648 and for the local share in the amount of \$3,662 to be provided by a transfer from the General Fund Contingency Account for a total appropriation of \$18,310 and appropriating same was adopted by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

PUBLIC HEARING - SPECIAL USE PERMIT AT 284 WEST MAIN STREET

Mayor Saunders opened the floor for a Public Hearing to consider a request for a Special Use Permit to operate a bed and breakfast at 284 West Main Street. Notice of the Public Hearing was published on December 1 and 8, 2009.

Applicant Brenda Brokaw appeared to request that Council approve a Special Use Permit to operate a bed and breakfast in her home on West Main Street. Ms. Brokaw indicated she would operate the facility primarily during Averett University graduation and homecoming events. She further advised Council she had requested the permit to operate a two-bed facility, but the Planning Commission had recommended the operation of only one bedroom due to inadequate parking on her property. Ms. Brokaw reported that since the Planning Commission meeting, she had obtained written

December 15, 2009

permission from her neighbor to allow customers to park on the neighbor's property.

City Manager Lacy recommended postponing action on the item so additional information could be obtained.

No one further desired to be heard and the Public Hearing was closed.

Mr. Luther recalled that two years ago, the former owner of the property had requested a Special Use Permit to operate a bed and breakfast using two rooms and the Planning Commission and Council had approved the request. He wondered why the Planning Commission approved only one for Ms. Brokaw's operation.

Planning Director Gillie recalled a permit had been issued to the former owners over two years ago and that he would investigate and report his findings to Council and staff.

Council Member Tomer moved adoption of an Ordinance entitled:

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW FOR THE OPERATION OF A BED AND BREAKFAST IN ACCORDANCE WITH ARTICLE 3.E, SECTION C, ITEM 3, OF CHAPTER 41 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, AT 284 WEST MAIN STREET.

Council Member Rawley seconded the Motion.

Council Member Miller moved to **TABLE** the matter until additional information was provided for Council's review. The Motion was seconded by Vice-Mayor Oakes and carried by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley, Saunders, Shanks and Tomer (9)
NAY: None (0).

PUBLIC HEARING - SPECIAL USE PERMIT AT 753 MAIN STREET

Mayor Saunders opened the floor for a Public Hearing to consider a request for a Special Use Permit to operate a school at 753 Main Street. Notice of the Public Hearing was published on December 1 and 8, 2009. No one present desired to be heard and the Public Hearing was closed.

Council Member Archie moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-12.05

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW FOR THE OPERATION OF A SCHOOL IN ACCORDANCE WITH ARTICLE 3.J, SECTION C, ITEM 14, OF CHAPTER 41 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, AT 753 MAIN STREET.

December 15, 2009

The Motion was seconded by Council Member Campbell and carried by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

PUBLIC HEARING-AMEND ZONING CODE-AMEND MAXIMUM HEIGHT OF COMMERCIAL COMMUNICATION TOWERS

Mayor Saunders opened the floor for a Public Hearing to consider amending the Zoning Code relating to the maximum height of commercial communication towers. Notice of the Public Hearing was published on December 1 and 8, 2009. No one present desired to be heard and the Public Hearing was closed.

Vice-Mayor Oakes moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-12.06

AN ORDINANCE AMENDING AND REORDAINING CERTAIN SECTIONS OF CHAPTER 41 ENTITLED "ZONING CODE," OF THE DANVILLE CITY CODE, INCLUDING SPECIFIC SECTIONS IN ARTICLE 2, ENTITLED "GENERAL REGULATIONS," SECTION R, ENTITLED "COMMUNICATION TOWERS AND ANTENNAS," ITEM 8, BY AMENDING THE MAXIMUM HEIGHT OF COMMERCIAL COMMUNICATION TOWERS BY ALLOWING FOR A HEIGHT OF 150 FEET AND AN ADDITIONAL HEIGHT OF 20 FEET FOR OMNIDIRECTIONALS OR WHIP ANTENNA FOR A TOTAL HEIGHT OF 170 FEET FROM GRADE.

The Motion was seconded by Council Member Campbell and carried by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

PUBLIC HEARING-SPECIAL USE PERMIT-AUTHORIZE PUBLIC USE OR UTILITY

Mayor Saunders opened the floor for a Public Hearing to consider a request for a Special Use Permit for property located at 126 Third Avenue for the purpose of constructing a radio tower. Notice of the Public Hearing was published on December 1 and 8, 2009. No one present desired to be heard and the Public Hearing was closed.

Council Member Campbell moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-12.07

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO AUTHORIZE A PUBLIC USE OF UTILITY IN ACCORDANCE WITH ARTICLE 3.E, SECTION C, ITEM 15, OF CHAPTER 41 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, AT 126 THIRD AVENUE.

December 15, 2009

The Motion was seconded by Council Member Rawley and carried by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

PUBLIC HEARING-AMEND ZONING CODE TO ALLOW FOR BICYCLE SHOP BY RIGHT

Mayor Saunders opened the floor for a Public Hearing to consider modifications to the Zoning Ordinance by adding the operation of a Bicycle Shop by right in areas of the City. Notice of the Public Hearing was published on December 1 and 8, 2009. Applicant Sheila Gentry appeared to answer questions from Council Members and citizens.

No one present desired to be heard and the Public Hearing was closed.

Council Member Shanks moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-12.08

AN ORDINANCE AMENDING AND REORDAINING CERTAIN SECTIONS OF CHAPTER 41 ENTITLED "ZONING CODE," OF THE DANVILLE CITY CODE, 1986, AS AMENDED, INCLUDING SPECIFIC SECTIONS IN ARTICLE 3.7, (N-C NEIGHBORHOOD COMMERCIAL DISTRICT), ARTICLE 3.K, (CB-C CENTRAL BUSINESS DISTRICT), ARTICLE 3.L, (TW-C TOBACCO WAREHOUSE DISTRICT), ARTICLE 3.M, (HR-C HIGHWAY RETAIL DISTRICT), ARTICLE 3.N, (PS-C PLANNED SHOPPING CENTER DISTRICT), AND ARTICLE 15 (DEFINITIONS) BY ADDING THE OPERATION OF A BICYCLE SHOP BY RIGHT IN AREAS OF THE CITY OF DANVILLE ZONED N-C, CB-C, TW-C, HR-C AND PS-C AND PROVIDING THE DEFINITION OF A BICYCLE SHOP.

Council Member Rawley seconded the Motion.

Mr. Shanks and Mr. Luther expressed concern about the sale of motorized vehicles. Ms. Gentry advised she would be selling pedal-type bicycles only.

Mr. Shanks moved to amend the Motion to strike the words "with internal combustion engines of over 50cc" on page 4 of Ordinance and to correct typographical error on page 3 of Ordinance that reads "Section C Uses Permitted by Special Use Permit" to read "Section B Permitted Uses."

The Motion to amend was seconded by Council Member Luther and carried unanimously.

The original Motion, as amended, carried by the following vote:

VOTE: 9-0

December 15, 2009

AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

PUBLIC HEARING-RADIO TOWER LEASE-LAKE MEDIA, LLC

Mayor Saunders opened the floor for a Public Hearing to consider the execution of a Lease Agreement with Lakes Media, LLC for the placement of telecommunication antennas and equipment on the City's Third Avenue Radio Tower. Notice of the Public Hearing was published on December 1 and 8, 2009. No one present desired to be heard and the Public Hearing was closed.

Council Member Archie moved adoption of a Resolution entitled:

RESOLUTION NO. 2009-12.16

A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH LAKES MEDIA, LLC FOR THE PLACEMENT OF TELECOMMUNICATIONS ANTENNAS AND EQUIPMENT ON THE CITY'S THIRD AVENUE RADIO TOWER.

Council Member Luther seconded the Motion.

Mr. Luther expressed concerns about potential environmental hazards when all antennas and equipment were simultaneously in use. He said radio frequency radiation from the tower was relatively harmless at ground level, but those climbing the towers would be exposed to high levels of the radiation.

Mr. Luther moved to amend the motion that the City Attorney factor into the lease protection for the City and those who climb the tower from radio frequency radiation as may be required by the FCC and OSHA. The Motion was seconded by Mr. Shanks and carried unanimously.

The original Motion, as amended, carried by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

CHANGE KNIGHT CELOTEX WAY TO CELOTEX DRIVE

Council Member Luther moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-12.09

AN ORDINANCE CHANGING THE NAME OF KNIGHT CELOTEX WAY TO CELOTEX DRIVE.

The Motion was seconded by Council Member Rawley and carried by the following vote:

December 15, 2009

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

PARTICIPATE IN AMP MELDAHL-GREENUP HYDROELECTRIC PROJECT

Council Member Shanks moved adoption of a Resolution entitled:

RESOLUTION NO. 2009-12.17

A RESOLUTION APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF POWER SALES CONTRACTS WITH AMERICAN MUNICIPAL POWER, INC. AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH REGARDING MELDAHL AND GREENUP HYDROELECTRIC PROJECT PARTICIPATION.

The Motion was seconded by Council Member Archie and carried by the following vote:

VOTE: 9-0
AYE: Archie, Campbell, Luther, Miller, Oakes, Rawley,
Saunders, Shanks and Tomer (9)
NAY: None (0).

COMMUNICATIONS

There were no communications from the City Manager. Christmas and New Year greetings were extended by the City Attorney and City Clerk.

ROLL CALL

Each Council Member extended Christmas and New Year best wishes to City employees and to the general citizenry.

Mr. Campbell announced the community Christmas dinner would take place at the Community Market on Christmas day.

Mr. Rawley thanked the car club for providing the vehicles for Council's use in the annual Christmas parade on Saturday night.

Mr. Shanks announced that U. S. A. Today reported that Galileo School had been ranked as one of the best in the United States. Only eight other schools in Virginia made the list. Mr. Shanks reminded everyone the Chrismon Tree was now on display for public viewing at the Ascension Lutheran Church from 7 p.m. to 9 p.m. nightly.

Mr. Tomer encouraged donations to charities during the holidays and thanked City employees for their work this year.

Mayor Saunders thanked City staff and employees for their loyalty and dedication and extended best wishes to all for a Merry Christmas and a healthy and happy new year.

December 15, 2009

The Meeting adjourned at 8:00 P.M.

APPROVED:

MAYOR

ATTEST:

CITY CLERK