

PLANNING COMMISSION MINUTES
November 8, 2010

MEMBERS PRESENT

Mrs. Evans
Mr. Griffith
Mr. Jennings
Mr. Scarce
Mr. Jones
Mr. Laramore

MEMBERS ABSENT

Mrs. Pritchett

STAFF

Clarke Whitfield
Ken Gillie
Christy Taylor
Renee Blair

The meeting was called to order by Chairman Griffith at 3:00 p.m.

I. ITEMS FOR PUBLIC HEARING

1. *Special Use Permit Application PLSUP2010000141, filed by Samuel Pierce, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3M, Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended at 239 Mayfield Road, otherwise known as Grid 9508, Block 001, Parcel 000012 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a youth recreation center.*

Ms. Blair read the Staff Report. Twenty (20) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Five (5) respondents were unopposed to the request; four (4) were opposed to the request.

Open the Public Hearing.

No one was present on behalf of the request.

Present in opposition to the request was Mr. Adam Goebel. Mr. Goebel stated I live adjacent to the property at 241 Mayfield Road. I along with other residents that also received the letter strongly oppose it for various reasons. One (1) reason is partly because it has been quiet even though it has been zoned commercial residential neighborhood for the past decade. We feel that there are numerous facilities in or around Danville that would accommodate this request that are not in the middle of a residential area. Ingress and egress is a little iffy because of the location and blind curve. As it was mentioned, there are very limited parking spaces. Overall we greatly oppose the request.

Present in opposition to the request was Mr. James Harris. Mr. Harris stated I am a resident of 250 Mayfield Road. I have been there for twenty-six (26) years. The place that they want to use for the indoor recreation, we have a lot of questions on that. Is it going to be supervised? When you have recreation, it brings on quite a few other problems, especially when you are dealing with young people. Do not get me wrong. We know we need a place for young people to go to. It being in a residential area makes it seem like they are putting a burden on us in the neighborhood. A lot of people I know are opposed to it. Kids have to be supervised. When you put things in for kids, it brings on a lot of other problems too. I am against it.

Close the Public Hearing.

Mr. Jones asked did Mr. Pierce talk about any age groups and what level he would be trying to get to come to this facility?

Mr. Gillie responded he discussed the younger age groups, teenagers, and other things like that. He did not specify who would be going there.

Mr. Jones asked was there not a sprinkler system there? Would he have to install one?

Mr. Gillie responded yes, he would need to modify the building to meet current Code. The building was constructed in the late 60's, early 70's, and at that time the Code was different. There would have to be modifications.

Mr. Scarce made a motion to recommend denial of Special Use Permit Application PLSUP2010000141 based on Staff's recommendations and the fact that no one was present on behalf of the request. Mr. Jones seconded the motion. The motion was approved by a 6-0 vote.

2. *Special Use Permit Application PLSUP2010000148, filed by William Meyer, requesting a Special Use Permit to allow a veterinary clinic in accordance with Article 3N: Section C, Item 20, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended at 211 Nor Dan Drive, Suite 1020, otherwise known as Grid 1808, Block 004, Parcel 000077 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a retail pet store offering grooming, training and veterinarian services.*

Ms. Blair read the Staff Report. Seventy-three (73) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Twenty-one (21) respondents were unopposed to the request; Three (3) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. William Meyer, owner of World of Pets. Mr. Meyer stated World of Pets is the only locally owned and operated pet store in the Danville, Virginia area. In October of 1993, we opened with twenty-one hundred (2100) square feet. In 2001, we expanded to the next door space, and became thirty-six hundred (3600) square feet. Our goal from day one (1) had always been to have a grooming facility in our pet store; but we always did not have space. When we expanded to thirty-six hundred (3600) square feet, once again retail space took up what we could have used for that unfortunately. We are now moving into Danville from Market Square shopping center, and we will be expanding to eighty-five hundred (8500) square feet. The extra space will not only allow us to increase our retail space, it will also allow us to offer grooming, pet training, and veterinarian services. Our main thought on veterinarian services is this: we would like to have an exotic animal veterinarian, someone that specializes in reptiles, birds, and small animals such as ferrets, rabbits, guinea pigs, etc. For the most part, there really is no veterinarian in the Danville/Pittsylvania County area that specializes in that. I mean they try, and for the most part they call me for my advice. The nearest veterinarian to do anything with exotics is in Raleigh or Greensboro, North Carolina. We are hoping to get someone that specializes in that particular area. I have been a Danville native all of my life, almost fifty (50) years. Even though we are in the County right now, we are coming to the City. I look forward for the World of Pets and the City of Danville to have a long, good working, positive relationship hopefully for at least another seventeen (17) years. If there are any questions, I would be happy to answer them.

Mr. Jennings asked have you ever had breeding at any of your other stores?

Mr. Meyer responded no, we will not have pet breeding nor do we plan to have pet breeding. There will not be any outside activity, like training. Everything will be conducted inside the building itself.

Mr. Jennings asked is it a veterinarian, not a training center?

Mr. Meyer responded basic pet training is like puppy socialization classes, and obedience classes. We have a large enough square footage that it will all happen inside the store itself. There will be no activities outside. We never have, nor do we have any intention on breeding animals.

Mr. Griffith asked would there be any overnight boarding?

Mr. Meyer responded no.

Mr. Jones asked no doggie daycare?

Mr. Meyer responded no.

Mr. Jones asked daycare only?

Mr. Meyer responded they will bring their dog in the morning to be groomed and they are expected on their way home from work to pick up their pet.

Close the Public Hearing.

Mr. Scearce made a motion to recommend approval of Special Use Permit Application PLSUP2010000148 with Staff's conditions. Mr. Laramore and Mrs. Evans seconded the motion. The motion was approved by a 6-0 vote.

3. *Special Use Permit Application PLSUP2010000143, filed by Jack Wood, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3M: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended at 1311 Piney Forest Road, Suite E, otherwise known as Grid 1808, Block 010, Parcel 000001 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair read the Staff Report. Twenty (20) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Three (3) respondents were unopposed to the request; Two (2) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Jack Wood, Mr. Linwood Clark, and Mr. Stephen Piepgrass, Attorney. Mr. Wood stated we are very interested in opening our business here in Danville. One thing that I just noticed Ms. Blair was talking about was that we were going to be open twenty-four (24) hours a day. That is not necessarily true. We would like to be open twenty-four (24) hours a day, but we are very willing to work with the town. If we can adjust those hours, we are more than willing to do so if that will make a difference in whether or not we get our permit to open up. Another thing was if I understood her correctly, she was reading a letter that was in opposition to us about whether it was an adult establishment or not an adult establishment. We can allow people under eighteen (18) to come in if we wish. We just do not do so. They were talking

about the traffic, and the people coming in there. It is a shopping center that was allowed to be put in there. It was designed to have seventy-five (75) parking spaces. We will not exceed the limit that it has already been approved for. The customers that are going to be coming in there, if we are talking about the people coming in there, are going to be people in the community, people that come and shop in every store that is in Danville now. We do not see any problem with that either.

Mr. Jones asked are you an attorney in North Carolina?

Mr. Piepgrass responded no sir; I am an attorney here in Virginia. I am practicing with Troutman Sanders in Richmond. I came to answer any questions that you may have about the legality of these issues. I am happy to address that.

Mr. Jones asked is there a question between the North Carolina operation and what we have been told by Council for Virginia?

Mr. Peipgrass responded no sir there is not. There are two (2) Attorney General opinions in Virginia on similar issues dealing with these internet cafés. One (1) was an opinion issued on July 30th to Delegate Janice, and the other was issued October 15th to Senator Hawk. The first (1st) opinion of the Attorney General was that the establishment that was described, which is on all fours with my client's establishment, was perfectly legal under Virginia law under Code Section 18.2-325.1. That was a business that also offered business services, internet time, fax services, and scanning. That is exactly the sort of services that are offered by my clients. The October 15th opinion addressed a sort of different type of internet café. This is one (1) where they were selling DVD rentals, and phone cards. Those were essentially being thrown out by customers, and it was a way to get around the rule in Virginia, that you have to have consideration. In this instance, we do have consideration. They are buying the time to use the computers for email, word processing, other sorts of things, and to use office services. In the other later opinion, which is one (1) that we were sent, it is a very different sort of internet café than what my clients are proposing to open here, and what they have opened in North Carolina.

Mr. Jones asked will there be any payout based on use of these computers?

Mr. Peipgrass responded everyone who goes into the café is voluntarily entered in the sweepstakes. You can do that by going up to the desk and asking the clerk for entries, you can send in a request for entries by mail, or when you go ahead and purchase internet time or purchase fax services, you have the option to get free entries into the sweepstakes. That is what key consideration is in that Code section that makes it legal to operate these is that these entries are free regardless of whether you have them because you purchased internet time or fax service or some other service or you got them free. Your chances of winning are the same and your odds are the same. Essentially it is similar to if you went into McDonald's and you tore off the sweepstakes entry from your cup. You are entered into a free sweepstakes, but that does not violate Virginia gambling laws.

Mr. Jones asked when you go into McDonald's and win a sweepstakes you are going to win a Big Mac. Am I going to win money in your establishment?

Mr. Wood responded yes you are. There are lots of other types of sweepstakes that you can enter into online and you can win money. First Citizens Bank offers sweepstakes if you have enough money in your checking account. You can win a thousand (\$1,000) dollars in cash there. There is Family Dollar, Dollar General, and I think even the television show Jeopardy. I think you can go online from your own computer, play games, enter into sweepstakes, and win prizes and money with them. There are thousands of sweepstakes and ways to enter them all over the country. We

are just doing it in a little bit different format, but we are doing the exact same thing. You can come in and win cash at our stores, but you can also come in and request a free entry at our store without making any purchases whatsoever. You can have those free entries and also have the possibility to win cash at our store, which is the same as if you are buying internet time. If you do not want to come in the store, you can mail in a three by five (3x5) card for free entries to win and your odds are the same. If you come in and spend five (\$5.00) dollars in buying internet time, we will give them five (\$5.00) more dollars worth of free time. They can use this time to go on Facebook, check their email, or they can enter into sweepstakes. We offer several methods of free entry, which is what the Attorney General said we had to do to be legal.

Mr. Jones asked if I give you five (\$5.00) dollars for time, how much time do I get?

Mr. Wood responded you will get twenty (20) minutes, so really if we are matching that, you are going to get forty (40) minutes.

Mr. Laramore asked is this software program that you are running in North Carolina identical to what you are proposing?

Mr. Wood responded yes, we have several types of software that we use. One (1) is a VS-2 system, and the other is Figure 8. We are looking at some other companies that we may use as well. We have to make sure that they meet our criteria, and that they are legal.

Mr. Scarce asked do you feel that there are programs that fall this side of that line?

Mr. Wood responded there may be. There are several types of equipment available. You can go out and get slot machines from Las Vegas. They would not be legal. That is one (1) thing that we make sure of and that is that they are legal sweepstakes. We do not want to have anything that is illegal. We are not going to have it. There is other equipment that people use in North Carolina that we do not use for that reason. We do not want there to be any question about what we are doing as to whether it is legal or not. I do not want to go to jail. I know Linwood does not want to go to jail for doing something illegal. We are going to operate and work with the town if you have any questions about anything. If there is something that we are not doing right, we are willing to correct it. We are going to try and do everything completely by the law, by the State law of the Commonwealth, and for the town. We are investing a lot of money into this, and we do not want to go in and be shut down in a day or two (2). It would put us out of business if we spent a lot of money like that and get shut down. We are not going to do that.

Mr. Jennings asked will you be selling anything in your store other than internet services?

Mr. Wood responded yes we are. You can fax, copy, or stamp. We are also looking at getting a company now to where we can sell cell phones and phone time, which is totally separate from internet time. It is for cell phones just like if you go to Sprint.

Mr. Jennings asked but no products as such?

Mr. Wood responded well that is a product, telephones, and paper for copying.

Mr. Jennings stated an individual that comes into your store to use internet services, the time that he takes to do what he wants to do, for an example is how long?

Mr. Wood responded we do not know how long. That is up to the individual.

Mr. Jennings asked is that just the time that he buys for internet?

Mr. Wood responded yes sir.

Mr. Jennings asked and when he has finished his purpose, does he leave the store or does he hang around?

Mr. Wood responded no, I think most of them come in, do their business, and then they leave. We do not have people hanging around the stores and stuff like that. If we have people that come in and are causing any problems, we ban them from the store. We do not tolerate any type of activity like that. Most of our customers in our store are middle age and older. They are coming here for entertainment, because they enjoy coming in and playing the games and stuff. We also have games that they can come in and play that have nothing to do with the sweepstakes.

Mrs. Evans asked what is different from your company and someone who can do this at home? Why would they want to pay you to do this?

Mr. Wood responded I think it is just because of the atmosphere. They get to come in and socialize with their friends. It is like a bunch of older ladies going to play bridge. They can do that online on the internet, but I think they like the socialization and being able to come in, sit next to their family, and talk. It is just like bingo. I think you can do that online as well. They like to go and socialize. It is a form of entertainment for them. It gives them something to do. They cannot play football and basketball anymore. It is something they can do for their enjoyment. I like to fish. My partner and I have been fishing together for years. We enter fishing tournaments and we spend a lot of money doing that. Sometimes we win, and sometimes we do not win. They are legal all over the Country as well. There are hundreds, if not thousands of bass tournaments here in Virginia. People enter those tournaments and they have a chance to win thousands of dollars. They pay money there, and they enjoy doing what they are doing. They enjoy the comradery with the other fisherman. I think it is the same thing with our business. I think people enjoy coming in there because they are there with their friends, and they enjoy that comradery that they have with them.

Mr. Jones asked in the fishing tournament, someone is going to win, right?

Mr. Wood responded yes sir.

Mr. Jones asked is it possible in your business that everybody could lose?

Mr. Wood responded no.

Mr. Jones asked is somebody going to win?

Mr. Wood responded absolutely.

Mr. Jones asked in your store, or is somebody down the street going to win?

Mr. Wood responded no, the odds for every store are the same. You enter into a pool and that pool last about six (6) months. The odds are posted in the store and the rules are posted in the store. It gives you the odds for all of the different sweepstakes that you are entering. There is a certain amount that is going to be paid out during that period. There is no chance that nobody is going to win.

Mrs. Evans asked so if you buy twenty (20) minutes, which turns into forty (40) minutes worth of computer time. Who tells you when your twenty (20) minutes are up? Does the computer stop working?

Mr. Wood responded the computer will let you know.

Mrs. Evans asked in your application you said that you must be eighteen (18) or older. Is someone going to be carding people at the door?

Mr. Wood responded we get everyone's ID and all of their information when they come into the store, and we have it recorded as well. They have to have a valid ID. If they do not have a valid ID, then they cannot come in and use the equipment.

Mrs. Evans asked someone under the age of eighteen (18) could not come in and fax something?

Mr. Wood responded well no. We do not allow people under eighteen (18) in the store.

Mr. Griffith asked what is the point of that?

Mr. Wood responded the first store that we opened up, we did not have that rule. We were kind of learning what was going on. People would bring their children in and they were running around the store. Customers were complaining. We decided just to make it eighteen (18), so we would not have that problem. They were trying to use it as a baby-sitting clinic or something like that. It is just better not having kids running all around the store. That is why we did that.

Mr. Griffith asked someone under eighteen (18) could not come in and fax or use some other business service? If they wanted to fill out a college application or a resume, they could not do it there?

Mr. Wood responded if we have it posted on the door that no one under the age of eighteen (18) is allowed, then they would not be able to come in. I think we are entitled to do that just like there are other businesses that do not allow children unattended in their stores.

Mr. Griffith stated you are not saying unattended, you just do not allow them at all, even for a legitimate business purpose.

Mr. Wood stated if someone came in and said they wanted to fax something, we would probably allow them to do that if that is all they were going to do. As a general rule, we do not allow someone to come in under eighteen (18).

Close the Public Hearing.

Mr. Jones stated Mr. Whitfield you have got to put this in terms that some of us can understand. We have this letter from the Attorney General with a hypothetical case. Is this the same idea? I get from his letter of this hypothetical case constitutes illegal gambling. Is this the same thing as that?

Mr. Whitfield stated my answer may make it easier for you; it may make it harder for you. I think based on all of the research that I have done and all of the ways that these sweepstakes can be operated, trying to get into the issue of whether or not something is legal or illegal, unless you crawl right down into their business plan and almost go to one (1) of their establishments, you cannot do that. So really what you should be doing is basing your decisions rather than whether it is legal or

illegal, whether or not it fits within the community as like laid out basically general safety welfare and morals of the community, like the Planning Director has laid out for you.

Mrs. Evans asked is there anyone else in Virginia that has this type of establishment?

Mr. Whitfield responded I am sure there are. I think Martinsville has one (1), I think there is one (1) just outside the City limits in Pittsylvania County just beyond the National Guard Armory. I cannot name where they are, but I do believe there is at least one (1) or two (2) in Martinsville. There is one (1) in the County, and I know that just because I happen to pass it every now and again.

Mr. Laramore stated I think we will have a difficult time playing scenarios and trying to find out how it fits into things. As Mr. Wood stated, we should leave it up to the Commonwealth Attorney's office and the legal department of the City of Danville to determine if they cross that line. As he says in his most recent opinion, "some constitute legitimate marketing, and some will not." Every time we ask that question, it seems we have one (1) more. I do not think we can ask enough questions to fully determine that, and that may be what has to be done is that it is investigated. Does the City have a problem with the twenty-four (24) hour that came up with this? Is that a requirement or problem with it being in the shopping center?

Mr. Gillie stated the shopping center itself does not have other uses that are open twenty-four (24) hours. Most of those uses close around ten (10:00) or eleven (11:00) o'clock. Usually the twenty-four (24) hour operations that we have in the City are gas stations, convenience stores, and other things that sell a product that people need during a twenty-four (24) hour period. Do we have concerns with that? Yes, we do. We have concerns with what is going to occur during those odd hours. We have concerns that this is an establishment only open to those over eighteen (18), when you have restaurants and other things within close proximity that have children going in there. We are concerned with the close proximity to the apartment complex and other things that are within that immediate area. Without getting into the legality of the use itself, we have concerns enough with the surrounding neighborhood, and things that are in the immediate area to raise our suspicions; and that is why Staff has recommended denial of this request. We are recommending denial of the Special Use Permit itself, and that is something that Planning Commission can look at. Is the Special Use Permit for this type of use at this location appropriate? Staff's recommendation is no, based on those secondary effects of the impacts it is going to have on the surrounding uses.

Mr. Jennings asked are you saying it is a moral issue?

Mr. Gillie responded not necessarily a moral issue. What happens at the facility at two o'clock (2:00) in the morning? You already have issues with the immediate area, the apartment complex, and some other things that occur in that area. Will this draw and create additional problems for the community? We have concerns with community related issues. We are not drawing a moral line on whether this is right or wrong. We just have concerns with what occurs at that late of an hour at this shopping center. Other businesses are closed, and we now have this business being open. Is that going to draw an element to the community that is not necessarily good for the community? We are not trying to say morally yes or morally no, it is just that we have concerns with what impact it is going to have on the adjacent uses.

Mr. Jones asked Mr. Wood if there was a closing time of eleven o'clock (11:00), and somebody was on the computer; what happens to their situation? Can they save the time? Can they get to play whatever game the next morning when they come back or will it be frozen and cut off?

Mr. Wood responded absolutely their time is saved. You actually come in and put all of your ID information down, and then you put your own private pin number in there. Anytime that you have on your computer is saved. You can come in the next day, the next week, or the next month and still have your time. It does not go away. I would like to answer some of the questions that Mr. Gillie presented. I guess he was concerned with the type of atmosphere we would have at two o'clock (2:00) in the morning. He was worried about what would be going on in the store after two o'clock (2:00). It would be the same thing as twelve noon (12:00). There would be no difference in the atmosphere in our store. As I said earlier, if we have people that come in that are trouble makers or cause problems, we ban them from the store. We do not allow them to come back in. We do not want that type of individual in our store. Even if that type of individual that you are talking about, a drug dealer, or whatever they might be, if they come into the store, we do not know they are a drug dealer. Just as if they come into your real estate office, or they come into a gas station. You are not going to know if they are a drug dealer if they behave themselves and act like a civilized person. If they cause problems, they are out the door; and we do not allow them back in. We lock out their name on the computer, which we can do. We do not allow that person back in the store. That is not the type of atmosphere we want in our stores. I would also like to invite each and every one of you to come and visit one (1) of our stores, if you would like to, in North Carolina. There is even our type of store that a friend of ours owns, which he is an attorney as well. He is in Martinsville. You can go to Martinsville if you would like, and visit the VS-2 store there if you have some questions as to how the stores are ran, and that type of thing.

Mr. Laramore asked are all of the people using the VS-2 software ran the same, and do you have any leeway with the software to slide that bar one (1) way or the other?

Mr. Wood responded no, we cannot do that. The block of sweepstakes entries are sent to us every six (6) months. It stays the same. It is not adjusted or changed as long as the rules are posted and the so called percentages that you have in different sweepstakes are locked in that way.

Mr. Laramore asked is it the same in Martinsville, Danville, or North Carolina, whatever that software may be?

Mr. Wood responded yes sir.

Mr. Jones asked is the only way you are going to make money is when I give you five (\$5.00) dollars and I get forty (40) minutes on the computer?

Mr. Wood responded right. We make money on the internet time or on copies, and that type of thing.

Mr. Jones asked do you get any money based on how many people play a certain game?

Mr. Wood responded no, we just make our money based on the internet time that they purchase.

Mr. Gillie asked will your store be open after December 1, 2010 in North Carolina?

Mr. Wood responded right now we are not sure. We feel like we are going to be. It is still up in the air.

Mr. Gillie asked why is that? Why do you think that you are going to be open after North Carolina bans these after December 1, 2010?

Mr. Wood responded there are some legal things that are going on in North Carolina.

Mr. Griffith asked how long does the sweepstakes last?

Mr. Wood responded a block sweepstakes last about six (6) months, and then we get a new block.

Mr. Griffith asked if I came in and purchased a sweepstakes, do I have to wait six (6) months to find out whether I won something?

Mr. Wood responded absolutely not. You do not even have to play a game.

Mr. Griffith asked what I am saying is, if I came in and entered a sweepstakes, could somebody win after two (2) weeks?

Mr. Wood responded when you enter into the sweepstakes, let us say that I entered into a sweepstakes right now, you can hit a validate button and it will show you whether you won or not if that is what you wish to do.

Mr. Griffith asked is there only one (1) prize for each sweepstakes?

Mr. Wood responded per entry, yes sir.

Mr. Griffith asked are there multiple prizes, could one thousand (1000) people win?

Mr. Wood responded yes, sir. There are multiple prizes. It just depends on what the odds are for that particular one (1). I did not think to bring a copy of the rules. We would have to look at the odds to determine how many you could win. Your odds of winning may be one (1) per whatever, or a thousand (1000) per, that type of thing. All of the odds are posted in the store.

Mr. Griffith asked if the prizes were won before the first two (2) weeks of the sweepstakes, would it continue to operate? Would you continue to sell sweepstakes entries to people when there are no prizes left?

Mr. Wood responded I do not think that has ever happened. I think that it is spread out.

Mr. Griffith stated it has happened with the Virginia Lottery quite a few times. There is a law suit going on right now for the same type of thing where the grand prize was rewarded and they continued to sell tickets. There is quite an issue with the Virginia Lottery and I just wondered if you would have the same thing.

Mr. Wood stated I do not know that it has ever happened. It is not to my knowledge.

Mr. Jones asked do we have the option to table this?

Mr. Gillie responded yes.

Mr. Jones stated what I am getting from you is that there might be a ruling on this December 1, 2010 in this area.

Mr. Gillie stated sweepstakes have been banned in North Carolina as of December 1, 2010. North Carolina has passed legislation that bans operation of internet sweepstakes.

Mr. Jones stated obviously some of these owners are going to question that.

Mr. Gillie stated Mr. Wood just asked if we would like to come visit one (1) of his facilities. I just wanted to know if we would have the option of visiting one (1) of the facilities after December 1, 2010 when the ban occurred. I just wanted to know if we scheduled a trip, because right now it is late in November and with the holidays coming up I just wanted to know if we scheduled a trip to visit one (1) of those facilities could we do it after December 1, 2010 or is his facility going to be shut down based on the North Carolina ban.

Mr. Laramore asked would Virginia be tied to this ban in North Carolina?

Mr. Whitfield responded they are two (2) separate things. It would have no effect in Virginia, and I do not know of anything specifically on the books right now in Virginia. As far as December 1, 2010 is concerned, there is nothing magic about December 1, 2010 in the Commonwealth.

Mr. Gillie stated the question was when he offered for us to visit one (1) of his facilities in North Carolina, are we going to have that option after December 1, 2010. That is what I was asking.

Mr. Jones made a motion to table Special Use Permit Application PLSUP2010000143 until the December meeting. Mr. Laramore seconded the motion. The motion was approved by a 4-1-1 vote (Mr. Scarce Abstained and Mr. Griffith voted no).

4. *Special Use Permit Application PLSUP2010000147, filed by Robert Burton, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3N: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended at 211 Nor Dan Drive, Suite 1150, otherwise known as Grid 1808, Block 004, Parcel 000077 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Mr. Gillie stated if you will note the email states that the applicant has asked that it be withdrawn from this agenda and tabled until the next meeting. That is the purview of the Commission to actually honor that request to have that tabled. They actually did not want it removed completely. They just want it held over until next month, so we will need something, if it is agreeable, to have that moved.

Mr. Scarce made a motion to table Special Use Permit Application PLSUP2010000147. Mr. Jennings seconded the motion. The motion was approved by a 6-0 vote.

5. *Special Use Permit Application PLSUP2010000150, filed by W. A. Stevens, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3N: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 1461 South Boston Road, Suite B, otherwise known as Grid 3719, Block 004, Parcel 000005 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair read the Staff Report. Seventeen (17) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Five (5) respondents were unopposed to the request; Zero (0) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. William Stevens. Mr. Stevens stated I brought some pictures with me. We actually already operate one (1) in the State of Virginia in Farmville, Virginia. I brought pictures of that one (1), as a little introduction to what we are already doing. Ours runs a little bit differently from what I have heard previously here. These are pictures of our center that we have in Farmville, Virginia. I will tell you a little bit of how ours works. We actually run a business center. We run copies and fax. In the picture, in the middle of the floor of our office, we have a kiosk. There is a six thousand (\$6,000) dollar copy machine sitting in the middle of the floor. We made faxes, copies, digital pictures for people, or whatever they want. That is what we do. We use the sweepstakes to promote that business. We do not have "sweepstakes" on our windows, or anywhere on our business. We are in the faxing and copying business, and we use sweepstakes to promote that. The company that we got our software from police us very strongly to make sure that we adhere to this. They send people undercover to check us, to make sure that we are doing this the way we are supposed to be doing it. We follow this letter of the Attorney General, his opinion, because I understand that is the way it has to be done. They tell us how to do the buildings and everything. We follow that, and that is how we do it.

Mr. Jennings asked do you only have one (1) kiosk?

Mr. Stevens responded yes, one (1) kiosk.

Mr. Jennings asked is there more than one (1) computer in that kiosk?

Mr. Stevens responded no, we have a computer in the front. You can bring stuff in, put it on the computer, and go to the back to use the copy machine. We have other computers where they can come in and buy internet time. We have thirty (30) computers in there, where people can buy internet time. The kiosk is in the middle of the floor, and that is where we make the copies, photos, and stuff like that.

Mr. Laramore asked what is the software that you use for these remaining thirty (30) or so computers?

Mr. Stevens responded our software we use is from IIT Corporation. If you are reading the Attorney General's opinion, that is the one (1) that is specified. Anybody off of the street can come in any day that they want to and get a free entry. One (\$1.00) dollar free every day. They do not have to buy anything else. They can walk in, take their ID number once they are registered, and get a free sweepstakes entry every day. It is just like McDonald's, but you have to buy something at McDonalds. You can go online and get a free one (1), but just like you can do that, you get a free one (1) every day.

Mrs. Evans asked but not anyone under eighteen (18)?

Mr. Stevens responded we do not mind anyone under eighteen (18) coming in to fax and copy. We do not allow anyone under eighteen (18) to play on the computers; and the reason being is Facebook, MySpace, and all of the other stuff.

Mr. Jones asked I heard you say a dollar (\$1.00) free ticket. Is it free or is it one (\$1.00) dollar?

Mr. Stevens responded what I am saying is it is worth a dollar. It is like a dollar entry. You get four (4) entries for that dollar. That is what you can get. Ours are quarter entries, twenty-five (25) points. You can get four (4) spins on the machine for that. You can get four (4) entries, which is equivalent to a dollar. It does not cost you anything.

Mr. Jones asked does it cost me a dollar?

Mr. Stevens responded no, sir. You get one (1) free entry every day.

Mr. Jones asked are these two (2) different? Is his different from his?

Mr. Whitfield responded I do not know.

Mr. Gillie stated the applicant has asked for the same thing the other applicant asked for, commercial recreation to hold a sweepstakes machine. Again, as we talked about before from our Attorney, to determine legality or each individual use, you would need to go in and look at each one (1). We have got thirty (30) machines, the request for the sweepstakes, eighteen (18) and older; so from Staff's perspective commercial recreation, we treat it the same way. We are recommending denial based on those same factors. You have churches within the immediate area. You have facilities inside that are subject to being occupied by children and minors. We have those same concerns.

Mr. Scarce asked when you go online; can you get on the computer and go anywhere? I guess we are all just trying to understand how this works. If you can get on the computer and go anywhere, can you go to a gambling site?

Mr. Stevens responded I guess you could, but we try to police our computers so they are not being used illegally. It is just like porn sites. We walk around to make sure that no one is going to porn sites or anything like that. If we saw someone access our computers to go to an illegal gambling site, we would ask them to leave; and they would be banished from coming back in.

Mr. Scarce asked do you have a way to put a block on it to where they could not do that?

Mr. Stevens responded we actually have cameras that watch the people in there. We have about six (6) surveillance cameras to make sure we can see everything that is happening. We have pretty good security.

Mr. Scarce asked if someone went to one (1) of those sites while they were using your computer would that constitute you being called for providing equipment for illegal gambling?

Mr. Stevens responded no sir, I do not think so. We are going to make sure that is not happening. I have two (2) sites. I have one (1) in Pelham, and one (1) in Farmville, Virginia. They are entirely different kinds of businesses. The one (1) in Farmville runs a business center like the one (1) I have shown you here. The one (1) in Pelham is run the way they are ran in North Carolina. They are night and day different. It is not even the same animal. The one (1) in Farmville, we are very strict on it. In the one (1) in Pelham, I have a list of about twelve (12) people that we will not let come back, because they were doing things like you are talking about. There is no in between. If you get caught doing something wrong on our computer, you are out of the door.

Mr. Jones asked where are you from?

Mr. Stevens responded my name is Allen Stevens.

Mr. Jones asked where do you live?

Mr. Stevens responded I live in South Boston, Virginia.

Mr. Jones asked did you try to get this in South Boston?

Mr. Stevens responded the only reason I do not already have one (1) is because they have got to do a traffic impact study on the entrance of the building I have right now. I already have my application in and have paid my fees. Other than the traffic impact study, I am good to go.

Mr. Jones asked have you asked to have this anywhere other than Farmville?

Mr. Stevens responded I already have two (2) other permits for smaller tie-ins, but I do not think it would be beneficial for us to go into them. I have one (1) for Crew, Virginia and I think the other was Blackstone. There was already one (1) in Blackstone, so we did not go back to Blackstone. I know that IIT has opened one (1) in Harrisonburg, Virginia, Hopewell, Virginia, and several other locations I do not know.

Close the Public Hearing.

Mr. Jones asked do you know anything about these establishments in Hopewell and Harrisonburg? Are they set up the same way as the first (1st) mentioned or anything different?

Mr. Gillie responded no sir. I do not know anything about the other establishments.

Mr. Laramore stated we have never had any problem with the office portion of it. That is not an issue; it is once we cross over unto the eighteen (18) or older and the sweepstakes. That is all we are talking about. The fax machine and other services there do not make a whole lot of difference as far as I am concerned. Those would be perfectly acceptable in any of those locations. You made a statement that your software was different than the other persons, and I do not see that. The sweepstakes portion of it, not the office part, sounds the same to me.

Mr. Stevens stated most of them, and the one (1) I have in Pelham is this way, we issue a card. You actually have to buy time to get time. The one (1) that I have in Farmville, you do not have to purchase anything. It is a true sweepstakes. You can come in and get a free one hundred (100) points or a dollar (\$1.00), whatever you want to call it, everyday without buying anything. That is the difference between this software from IIT verses some of the other software companies that are out there. It is like buying a Cadillac or buying a Yugo. There are all different kinds. It depends on what you are buying. We have invested over one hundred thousand (\$100,000) dollars in our center in Farmville, but we also created four (4) new jobs. This is the way it runs. This is the way we run the sweepstakes. This is what makes us elite and different from other companies; I think it is the way the games are set up. Look at the pictures of how our office is set up. You can see we have crown molding around the kiosk. It is very nice when you walk in. It is not like my business in Pelham, I have computers sitting on top of tables. It is a different animal completely. That is what the difference is in my opinion between the IIT software and the others out there. It is the way the business is run. They police it. They will shut us down if they come in and find out we are not doing it this way. There is no in between. I have notices on the wall. They will shut us down immediately if we are doing it wrong. We cannot afford that.

Mr. Jones asked the only way you make money is if I come in and want time on the computer?

Mr. Stevens responded yes sir that is correct. We make money on the business side too. Last Friday I made around one hundred fifty (\$150) dollars making copies and faxes for people. We also sell internet time. You do not have to go onto the gaming side. It has a quick open. You can hit quick open button if you want to buy ten (\$10) dollars worth of internet time. It will reveal your entries

right away. It will do that for you. You hit the button and it will reveal your entries, just like if you went online for the lottery and saw your winning numbers, it would be the same thing.

Mr. Jones asked is there always a winner in this game?

Mr. Stevens responded yes sir. There are always winners.

Mr. Jones stated I still feel that we do not have enough information. Is there any way if this is tabled that Staff or Mr. Whitfield could check with Hopewell, Harrisonburg, or some of these other places and find out a little bit more about this.

Mr. Gillie stated we can. This is the first (1st) we have heard of other localities that this gentleman is operating. I can check with Reidsville, or is it Pelham? I am sorry.

Mr. Whitfield stated I think the localities would be Hopewell and Harrisonburg.

Mr. Gillie stated but also in Virginia.

Mr. Jones stated he is representing Farmville, and could we also get comments from the local Commonwealth Attorney in those areas.

Mr. Whitfield stated I think you are going to have a hard time getting an opinion from the Commonwealth Attorneys in those jurisdictions, just like in Danville; because they do not want to go on the record to be predisposed towards them being legal or illegal, because they get themselves in a situation where they might have to withdraw and bring in a special prosecutor. I just do not think you are going to get the Commonwealth Attorney's in those areas to give you any kind of legal opinion on that.

Mr. Jones stated but you could check with the Planning Commission in these areas and find out.

Mr. Gillie stated I can check with the Planning Department in Hopewell, Harrisonburg, Farmville, and any other localities in Virginia that someone tells me they are operating. We can determine how they are treating these or what they are doing, and if they have had issues with the operations. If necessary, we can visit the locations and see how they are operating.

Mr. Evans stated I would suggest Martinsville, since that was mentioned earlier.

Mr. Jones made a motion to table Special Use Permit Application PLSUP2010000150 until the December meeting. Mr. Jennings and Mrs. Evans seconded the motion. The motion was approved by a 6-0 vote.

Mrs. Evans left the meeting at 4:15 p.m.

Mr. Griffith asked is Mr. Braswell or a representative of his here? He had called and said that he was going to be late. If not, we will go to the next item on our agenda.

- 7. Special Use Permit Application PLSUP2010000153, filed by Jack Wood and Linwood Clark, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3N: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 3352 Riverside Drive, otherwise known as Grid 1703, Block 013, Parcel*

000002 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.

Ms. Blair read the Staff Report. Thirty-nine (39) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Five (5) respondents were unopposed to the request; one (1) was opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Jack Wood, Mr. Linwood Clark, and Mr. Stephen Piepgrass, Attorney. Mr. Wood stated pretty much everything that we went over before would be about the same; however I did want to get a point across. On the North Square Shopping Center, Ms. Blair said that there were sixty (60%) percent in favor, sixty (60%) percent of the population in favor that sent in letters about whether they were for or opposed. In an election that would be a landslide. On the Riverside Shopping Center she has got eighty-three point three-three (83.33%) percent. I think she had only one (1) person opposed. I would like to just get that point across. The public has spoken in an overwhelming majority in favor of our business. The other thing that I would like to get across is that you had some questions with the IIT gentleman about porn. I can tell you that our system has a firewall that is there to prevent that. A very expensive large firewall is there for just that purpose. We spent thousands of dollars to put that type of equipment in to prevent that type of activity. We also have all of the security cameras inside and outside of the stores.

Mr. Scarce asked I am still thinking about how you are going to make a lot of money. Are you anticipating a lot of people coming in to play the sweepstakes?

Mr. Wood responded well we do. We have a lot of customers.

Mr. Scarce stated well it would have to be if it is just a dollar here and there.

Mr. Wood stated we have a lot of overhead too.

Mr. Scarce stated I was concerned with you being able to pay the rent.

Mr. Wood stated we have about thirty (30) employees in North Carolina. We elect to hire a lot of minority people as well. We have actually three (3) minority managers. Two (2) of them are black female managers and one (1) is a white female manager. We have two (2) white male managers in North Carolina.

Mr. Jones stated you know what I am going to do.

Mr. Woods stated I do. That is why I tried to keep this as brief as I could.

Mr. Jones asked what is the address of your establishment in Reidsville? I am going to come down there and look at it.

Mr. Wood responded do you want to go to Wilson, North Carolina?

Mr. Scarce stated he said Reidsville.

Mr. Wood stated I am sorry I did not hear you.

Mr. Jones asked do you have one (1) in Reidsville?

Mr. Wood responded no we do not.

Mr. Jones asked is Wilson the closest?

Mr. Wood responded we have one (1) in Wilson. We have one (1) in Hickory. Hickory might be closer for you.

Mr. Griffith asked is there one (1) in Durham?

Mr. Wood responded yes, we have one (1) in Durham. Hickory has a VS-2 system. Durham has a system we may not use here.

Mr. Jones stated I have relatives that live in Durham. I will be going to Durham.

Mr. Wood stated that is ok. We do not have a problem with you going there.

Mr. Jones asked what is the address?

Mr. Wood responded it is on Chapel Hill Boulevard. I cannot remember the exact street address.

Mr. Jones asked what is the name of the establishment?

Mr. Wood responded Fish the Net. If I can make a quick phone call, I can get you the street number.

Mr. Laramore asked did you say the software is different?

Mr. Wood responded it is different.

Mr. Laramore asked is it the same in Hickory?

Mr. Wood responded it is the same in Hickory, Wilson, and Williamston, North Carolina.

Mr. Jones asked what is the one (1) in Wilson?

Mr. Wood responded Wilson is on Forrest Hills Road. I think the address there is 2117, but do not hold me to that. I can get you that information before we leave here today.

Mr. Laramore asked is the name the same?

Mr. Wood responded it is Fish the Net. It is very close to the Wal-Mart, and there is a Dollar General next door to it. It has a great big sign on the road. That is our largest store as far as number of computers. It is a forty-five hundred (4500) square foot store, and I think we have fifty-five (55) computers in there. Hickory has thirty-five hundred (3500) square feet, and forty (40) or so computers.

Mr. Jones asked do you feel these will be open after December 1, 2010?

Mr. Wood responded we feel strongly that we will be.

Mr. Piepgrass stated I would like to address some of the questions that have come up about the North Carolina verses Virginia, and why folks are looking at locating here. Last year the General Assembly passed a new section of the Code, Section 18.2-325. That Code now reads any lawful game, contest, lottery scheme, or promotional offering may be conducted following the requirements are met: one (1), there is an available method of free entry to all participants wishing to enter the contest without purchase, two (2), there is an equal opportunity to play and equal odds of winning for all purchase of entry regardless of whether they are free or paying customers. There are sort of requirements for written disclosures. That exception in the Code is now law in Virginia, and that is why folks are coming in here. The Attorney General, on July 30, 2010, issued an opinion. I am not sure if you all have seen a copy of that opinion. He issued a later opinion, and I think that was distributed at least to us. In that one (1), the scenario he was giving was a business that engages in the sale of internet and computer time. Consumers who purchase time on the computers use those computers for internet access and various software programs. Business also provides office support services including fax and copier services. It is the same business as what our folks are using. When they purchase internet time, they receive entries for prizes; and it discusses how those prizes are issued. It is the same model that Fish the Net uses. The Attorney General concludes that model fits with the Code Section, so it is ok. The later opinion where they are buying phone cards and throwing them on the floor is a different situation. Even though they are being handed phone cards, everyone knows what they are paying to enter a game of chance.

Mr. Scarce asked when you go to McDonalds and enter their sweepstakes, do you have to be eighteen (18)?

Mr. Piepgrass responded no.

Mr. Scarce asked why do you have to be eighteen (18) to enter these?

Mr. Piepgrass responded I think that is just the decision that they made in terms of the atmosphere that they wanted in their store.

Mr. Scarce stated he is doing it to. I was just wondering if that was something across the board.

Mr. Piepgrass stated I cannot speak for what others do.

Mr. Scarce asked is there nothing in the law?

Mr. Piepgrass responded there is nothing in the law that says that is a requirement.

Mr. Griffith stated everyone that has been before us has had a minimum age of eighteen (18).

Mr. Piepgrass stated I think that was the concern of the Planning Department in comparing it to adult establishments. Obviously this is a far cry from the adult bookstores or adult cabarets that are discussed there. They are apples and oranges in our opinion.

Mr. Jennings asked did you say that was in accordance with Section 18.2-325?

Mr. Piepgrass responded 18.2-325.1.

Mr. Wood stated I would like to say something about the IIT software as well as ours. Their software and the software that we use are probably the two (2) top of the line of the ones that are out there. We have experience with other software. We have one (1) in Durham. We are not

particularly happy with that one (1). That is why we are not looking at bringing that to Virginia. The VS-2 is technologically advanced, and I think IIT is more so than the other software out there. It is not that I would not mind being the only store in town, but they do have a quality product as well.

Close the Public Hearing.

Mr. Jones made a motion to table Special Use Permit Application PLSUP2010000153 until the December meeting. Mr. Jennings seconded the motion. The motion was approved by a 5-0 vote (Mrs. Evans was absent).

6. *Special Use Permit Application PLSUP2010000151, filed by Anthony Braswell, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3M: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 1155 Piney Forest Road, Suite D, otherwise known as Grid 1808, Block 011, Parcel 000037 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair read the Staff Report. Twenty-one (21) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Seven (7) respondents were unopposed to the request; zero (0) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Anthony Braswell. Mr. Braswell stated I apologize for not getting back with you. I also run a couple other sweepstakes businesses in Charlotte, North Carolina; and I am very busy lately. That is not an excuse. I was actually last minute getting here, but I am here. Our business in Charlotte, we are using a system known as Gateway, which is the most popular gaming system in Charlotte, North Carolina. It is standard in the successful sweepstakes businesses that are there. We do not use the phone cards. We actually use internet time. They can come in, and not pay anything at all. We have free internet time that is given to the customers, and they can use that time to try and have the same odds as a person coming in and actually applying money to their account for the same opportunity to win the sweepstakes. We are at South Lane Business Center, 3039 South Boulevard Charlotte, North Carolina. We have about eight (8) surveillance cameras. Three (3) of them at the front door, one (1) watching the parking lot, one (1) watching the door, and one (1) watching the far left sidewalk of the building. A customer trying to come into the business would either push the doorbell, and the attendant will see them. We have one (1) person to let people in, and to see if the customers need something to drink or refreshments. The other person is behind the counter to address the money situation. At night from seven o'clock (7:00) until, we have an armed guard inside the business. They walk the customers to their cars, and generally they make sure nothing goes on inside. None of my businesses have ever had an incident. I am fortunate for that. I actually tried to talk to the Major, but I was not able to get in touch with him. I left a couple of messages, but I have not gotten a response. If there are any questions, I would be happy to answer them to the best of my ability.

Mr. Jones asked 3039, what was the street?

Mr. Braswell responded South Boulevard. It is Suite B.

Mr. Jennings asked how long have you been operating?

Mr. Braswell responded for about eight (8) months.

Mr. Jennings asked how many do you have in operation?

Mr. Braswell responded two (2).

Mr. Laramore asked are both in North Carolina?

Mr. Braswell responded yes, both of them are in Charlotte.

Mr. Jones asked do you expect to be open after December 1st?

Mr. Braswell responded I would like to. I have heard both ways. I have not seen it in writing yet. From my understanding, as of December 1, 2010 they will not be at this point. A couple people who are in charge of the gaming systems say they have had attorneys spoke about IIT. They supposedly have a waiver to go an additional year. I have not seen it in writing, so I do not know. Once I see it in writing, I will go from there.

Mr. Laramore stated essentially your method of the gaming part of it is not different. It is similar to the sweepstakes and things.

Mr. Braswell stated we operate as a business center. We have fax, copy, you can just come in there and play the internet, and you can actually have solitary games. I am pretty straight forward. Generally people coming in there are not coming to use the copy machine.

Mr. Laramore stated you have a buzzer on your door.

Mr. Braswell stated they are allowed there. We have an age requirement also. We use eighteen (18) and above. You do not want someone underage to come in and play without permission. That is basically the concept behind that. We would love to come to the City of Danville and be allowed to operate in Danville. I am aware of some outside of the City limits. They are already operating in Martinsville, and some in the County. I do not know the addresses. It is information people with the games tell us. I would not be able to come with the same gaming system as someone else. I do actually know that system, because it is not popular in Charlotte. You cannot have more than one (1) gaming system. They do not operate like that. I have just a couple of other things to mention. We have two (\$2,000,000,000) million dollar bonding insurance. When the business starts up, we will start with two (2) shifts and then eventually we would like to run twenty-four, seven (24/7). There will be two (2) shifts with two (2) employees, so you are looking at about six (6) employees.

Mr. Jones asked is the one (1) in Charlotte open twenty-four (24) hours a day?

Mr. Braswell responded except for Sunday. It is open twenty-four (24) hours during the week, and on Sunday's it is open late. Actually on Saturday night around five (5:00) a.m. it shuts down. It is open until two o'clock (2:00) on Sundays.

Mr. Laramore stated you indicated that this facility would be a membership.

Mr. Braswell stated the first (1st) time they come in they have to fill out a registration form. From there, if they come in at a certain time at night, depending on the person that is working, if they do not know the person, they do not have to let them in. If you have a membership card, you are allowed to come in after a certain time at night. Generally it is after eleven o'clock (11:00).

Mr. Laramore asked what is the membership fee?

Mr. Braswell responded there is no membership fee. It is free. It is just the fact of you being a known customer. The likely hood of you being a member is just added security. That is the reason for the membership. That is not to say that the person with a membership would not do anything. That is not true.

Mr. Griffith asked so basically it is just a registration card or ID card showing that you have been there before?

Mr. Braswell responded correct.

Mr. Jones asked based on your software, the only way you make money is if I buy time on your computer?

Mr. Braswell responded you can be given time. You can get a dollar or so free entry. You can play a dollar the same way if I came in and spent one hundred dollars (\$100), so actually you do not have to buy anything.

Mr. Jones stated I am worried about you making money though.

Mr. Braswell stated the payoffs are the payoffs. Our system has a ninety-four (94%) percent payback to the customer, so in a sense if you give a dollar, ninety-three (.93) cents goes back to the people playing. Our money comes from that ten (10%) percent. That ten (10%) percent would be a split between the people who own the system and the company. To actually be a successful sweepstakes, you have to bring in a certain amount of revenue every couple of days to make a profit. That is the difference between the ones who will succeed and the ones who do not. A lot of people have tried a sweepstakes business, but they do not all succeed; because for one (1) the games are not up to technology as far as the graphics. People like certain games. On one (1) street there may be ten (10) within a four (4) mile radius. You have ones that make it and ones that come in and shut down within a couple weeks. You have to have the proper game. You have to know what people like and what they are used to. If you are coming in with something new and you are trying to introduce it to a new market, it would be a little different.

Close the Public Hearing.

Mr. Jones made a motion to table Special Use Permit Application PLSUP2010000151. Mr. Jennings seconded the motion. The motion was approved by a 4-0-1 vote (Mr. Scearce Abstained and Mrs. Evans was absent).

Mr. Whitfield stated just for the record since everybody is still here, that next meeting is December 13, 2010.

II. MINUTES

Mr. Laramore made a motion to approve the minutes from the October 11, 2010 meeting. Mr. Jones seconded the motion. The minutes were approved by a 5-0 vote (Mrs. Evans was absent).

IV. OTHER BUSINESS

Mr. Griffith stated there was a request made at the Board of Zoning Appeals meeting to consider amending the Sign Ordinance for ground signs as it relates to the Central Business Districts and Tobacco Warehouse Districts to allow for signs under the City's maximum of seventy-five (75) square feet on parcels of property that front on a four (4) lane divided highway where the speed limit is at least thirty-five (35) mph for safety. This motion was seconded and approved on a 4-0 vote to forward this to the Planning Commission and to Council.

Mr. Gillie stated it was forwarded to the Planning Commission if you wish to consider it. It is up to Planning Commission as to whether you choose to consider it or not. You can deny the consideration and it goes back to the Board of Zoning Appeals stating that Planning Commission did not feel it was necessary to hear or you can recommend that Staff advertise it for public hearing. It is your choice.

Mr. Griffith stated on this we can, as Kenny said, ask Staff to call for a public hearing and make a recommendation on this or we can send it back to the Board of Zoning Appeals, or deny it all together I guess.

Mr. Gillie stated you can send it back to the Board of Zoning Appeals saying it is not necessary, you can advertise it for public hearing, and go that route, then send it to City Council. One way or another, you do not have to. It is just a recommendation from the Board of Zoning Appeals.

Mr. Griffith asked has Staff done any work on this or made any recommendation?

Mr. Gillie responded Staff has reviewed it. At this point, Staff is not in favor of the modification. We had recommended denial of the variance. The Board tabled that request to have Planning Commission possibly consider it. I can tell you at this point, Staff's recommendation to Planning Commission if it is held for public hearing, will be a recommendation for denial.

Mr. Griffith asked how many? I mean this looks pretty specific. Is this just for a piece of property?

Mr. Gillie responded there are very few pieces of property that this would apply to. Off the top of my head, again we have not gone through and ran all of the numbers, I can think of maybe three (3).

Mr. Griffith stated it looked like it was rather specific as far as the size and where it was.

Mr. Gillie stated it has to front on a four (4) lane divided highway with the speed limit, and everything else. Yes, it was very specific.

Mr. Griffith stated in one (1) of two (2) districts.

Mr. Gillie stated we have very few streets in that area, that are four (4) lane, thirty-five (35) mph. Yes, it was extremely specific. That is one (1) of the reasons Staff is opposed to it. In our opinion, it almost grants special privilege to one (1) or two (2), maybe three (3) property owners that are not afforded to everybody else in the district. We do not feel that it balances out.

Mr. Scarce asked was the vote from the Board of Zoning Appeals unanimous?

Mr. Griffith responded no, it was a 4-0 vote.

Mr. Whitfield stated it was unanimous.

Mr. Griffith asked of those who were there, right?

Mr. Whitfield responded right.

Mr. Griffith stated of those who were there, there are more than four (4) people on the Board of Zoning Appeals.

Mr. Gillie stated we currently have five (5). There are two (2) vacancies on the Board.

Mr. Scarce stated evidently they must feel pretty strongly.

Mr. Gillie stated that is hard to say. Council asks, well what did Planning Commission think? I hate to answer why anyone thought anything. They had a case presented to them. They could see the merits, but it did not meet the statutory requirements for them, in our opinion, to grant a variance. They were sending it over to maybe look at a Code change to allow them to do what they were asking for. Again, from a Staff's perspective, it is specific to one (1) property owner. When you look at, I do not want to say spot zoning, but when you look at the premise of that type of thing, you give one (1) owner privileges that everyone else does not have. Based on the number of properties in the Central Business Districts and the Tobacco Warehouse Districts, you are giving maybe three (3), and again we have not run all of the numbers, so I am just speculating on that at best. To us, that was a little too specific, and it gave somebody something that the others do not have. We try to be as fair and equitable across the board as possible, so we were not in favor of the way it was worded.

Mr. Griffith asked what size signs are allowed in this particular district now, or these two (2), the Central Business and Tobacco Warehouse?

Mr. Gillie stated in the Central Business District, it is a sixteen (16) square foot sign and twenty-four (24) in Tobacco Warehouse District. Ms. Blair is the expert on signs. This would quadruple it basically.

Mr. Griffith stated so a four by four (4x4) foot sign or a four by five (4x5) foot sign.

Mr. Gillie stated on seventy-five (75) square feet, it would be eight by nine (8x9) with a height difference. It changes the signs for a few properties within that district.

Mr. Scarce asked what is the difference between the square footage of what it is now?

Mr. Gillie responded it is sixteen (16) now in the Central Business District. It will go to seventy-five (75), so you are looking at quadrupling it for a few properties. In the Tobacco Warehouse District it is twenty-four (24), so you are looking at three (3), or four (4) times what it is.

Mr. Griffith stated three (3) times the size.

Mr. Jones asked does this have to come through our Commission?

Mr. Gillie responded it does not have to. It is recommended from the Board to send it to you. It is up to you as to whether you decide to advertise it for a public hearing. In this open discussion, you can say no, we do not feel that change is necessary. You can refuse to hear it, or you can advertise it, we can hold the public hearing, and then a recommendation is made to City Council either up or down.

Mr. Griffith stated what has happened to transpire this that there was a request made to the Planning Commission and City Council from the Board of Zoning Appeals to amend the Sign Ordinance.

Mr. Jones asked if we do nothing, does it go to City Council?

Mr. Gillie responded no. It just goes back to the Board of Zoning Appeals that Planning Commission did not think that it was necessary, and that is it.

Mr. Jennings asked so if they do not act on it, it dies?

Mr. Gillie responded the Board will have to act on the merits of the case as it stands now.

Mr. Griffith stated they are asking us to change the City's Sign Ordinance.

Mr. Laramore stated and that will just affect a few properties.

Mr. Griffith asked and this is for ground signs?

Mr. Gillie responded yes.

Mr. Griffith stated so, that would not be anything on a building. We are looking at a seventy-five (75) square foot sign that would be sitting on the ground in the front or the side of a building.

Mr. Gillie stated only on a four (4) lane highway.

Mr. Griffith stated only on a four (4) lane highway where the speed limit is thirty-five (35).

Mr. Gillie stated yes.

Mr. Griffith stated where it snowed Tuesday or whatever all of the requirements are. It would be a seventy-five (75) square foot sign. It would not be anything on the side of the building.

Mr. Gillie stated a seventy-five (75) square foot sign with additional height only on the ground. It would not affect wall signage.

Mr. Griffith asked is there a setback on these now? I was just thinking about the size of it as far as obstruction of view at intersections.

Ms. Blair responded the current setback for CB-C District is five (5) feet. It is five (5) feet from the right-of-way. A sixteen (16) square foot sign, ten (10) feet high, and five (5) feet from the right-of-way.

Mr. Griffith stated so you could have an eight by nine (8x9) foot sign, I do not know how far the right-of-way goes back from the center line to various pieces of property, within five (5) feet from that.

Mr. Gillie stated the right-of-way is usually about a one-half ($\frac{1}{2}$) foot from the sidewalk. You are looking at about five and a half ($5\frac{1}{2}$) feet from the edge of the sidewalk, then have a seventy-five (75) square foot ground sign. They are proposing even higher than ten (10) feet.

Mr. Griffith stated I am concerned about the obstruction just from a safety stand point. The obstruction for traffic if there is a curve, near a corner, at an intersection, or even where the road was curving. You would have an obstruction of vision as far as traffic is concerned.

Mr. Gillie stated there are a multitude of reasons why Staff has concerns with how this was proposed.

Mr. Scarce stated it seems like it was proposed to benefit one (1) particular property owner, and I think that could constitute spot zoning too. That is another issue that we have to be aware of. Based on everything I have heard so far, it does not sound like anything we would act on.

Mr. Griffith called for a motion.

The request died due to the lack of a motion.

Mr. Gillie stated City Council denied the request for the Special Use Permit based on the lack of parking. We are working on receiving the final draft of our Comprehensive Plan. We should have that Friday. Once we receive it, we will be forwarding that to you to start looking at to prepare for meetings. We are anticipating the neighborhood meetings probably sometime in January.

Mr. Scarce asked the one (1) that was denied because of parking issues, was there any other discussion about the business in general as far as how Council felt about it, because all of these will be going that direction?

Mr. Gillie stated there was substantial discussion amongst Council members regarding that. All I would suggest is, anyone who wants to view the video and audio, that is available on the City's website. You can log onto Danville's website, go to the TV-20, and watch the meeting. It is relatively early in the meeting, maybe five (5) to ten (10) minutes into it. There was probably about fifteen (15) minutes of discussion regarding that particular case.

With no further business, the meeting adjourned at 5:00 p.m.

APPROVED