

February 3, 2009

The regular February Meeting of City Council was held on February 3, 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., 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 (8). T. David Luther was absent (1).

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

Other Staff Members present were Finance Director Barbara Dameron, Community Development Director Jerry Fischer, Planning Director Kenny Gillie and Economic Development Director Jeremy Stratton.

Mayor Saunders presided.

INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member Campbell offered the Invocation. The Pledge of Allegiance to the Flag, led by St. Luke's united Methodist Church Boy Scout Troop 374, followed.

Mayor Saunders welcomed District Boys Scout Executive Director Ryan Hatch, Scout Master Steve Gerey, and parents of the scout troop and thanked them for taking part in the Council Meeting.

COMMUNICATIONS FROM VISITORS

Mayor Saunders recognized Rev. Cecil Bridgeforth. Rev. Bridgeforth announced that Saturday, February 7 is AIDS Awareness Day and ask that everyone remember victim of the AIDS virus. He expressed concerns about the blighted conditions in certain areas of the City and complained that slumlords were not properly screening tenants, which meant crime was prevalent in those areas.

Rev. Thomas Motley appeared to present a petition containing 1,007 names to Council. Petitioners were requesting relief for certain citizens from high utility costs. The petition read in part "that Council draft, support and pass legislation, ordinances and laws that would offer financial support, and fuel and energy assistance to all senior citizens, disabled citizens and the unemployed during winter months. The petition further stated that by evaluating these citizens' income and financial resources and based on the formula set in place, allow each of these individuals categorized in the petition to pay the amount the individual was able to pay based on income and under no circumstances during the winter months have services disconnected."

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Rev. Motley cited an individual who had been without electricity for several months and because utilities were inactive, the house had been condemned for health and safety reasons.

Rev. Motley distributed a memorandum to Council Members with the following proposals in response to excessive utility costs:

- Repeal the current equal pay formula and replace it with a formula that offers real financial assistance to its citizens. For instance, average out the citizens' utility costs for a twelve (12) month period. Take the lowest utility bill of that period and subtract fifty (\$50) dollars from that bill and then allow citizens to pay that bill during the winter months from November through March of each fiscal year.
- Repeal the latest (20%) rate increase.
- Under no circumstances turn off the utility of any person who can prove they are a senior citizen or disabled during the winter months.

Mayor Saunders thanked Rev. Motley for bringing these concerns to Council and stated the concerns would be taken under advisement.

MINUTES

Upon Motion by Council Member Shanks and second by Council Member Tomer, Minutes of the Special Work Session held on January 20, 2009 and the Regular Council and Work Session Meetings held on January 20, 2009 and the Special Closed Work Session held on January 27, 2009 were approved as presented. Draft copies had been distributed to Council Members prior to the Meeting.

BUDGET ADOPTION-FY 2009-USDOT - HAZARDOUS MATERIALS RESPONSE PLAN

Upon Motion by Council Member Shanks and second by Council Member Rawley, Ordinance No. 2009-01.07 presented by its First Reading on January 20, 2009 amending the Fiscal Year 2009 Budget Appropriation Ordinance to provide for a Grant in the amount of \$27,000 from the United States Department of Transportation was adopted by the following vote:

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

APPOINTMENTS

Council Member Miller moved adoption of the following Resolutions of Appointment:

RESOLUTION NO. 2009-02.01

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A RESOLUTION APPOINTING GEARY H. DAVIS AS A MEMBER OF THE DANVILLE REDEVELOPMENT AND HOUSING AUTHORITY BOARD OF COMMISSIONERS.

RESOLUTION NO. 2009-02.02

A RESOLUTION APPOINTING JOHN H. LARAMORE AS A MEMBER OF THE PLANNING COMMISSION.

RESOLUTION NO. 2009-02.03

A RESOLUTION REAPPOINTING RAMONA N. FLETCHER AS A MEMBER OF THE SOUTHERN AREA AGENCY ON AGING, INC.

RESOLUTION NO. 2009-02.04

A RESOLUTION APPOINTING PHILIP W. CAMPBELL AS A MEMBER OF THE SOUTHERN AREA AGENCY ON AGING, INC.

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

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders, Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

PUBLIC HEARING - REZONE PROPERTY AT 178 CRYSTAL LANE

Mayor Saunders opened the floor for a Public Hearing to consider a request to rezone property located at 178 Crystal Lane for the purpose of bringing a non-conforming single-family home into compliance. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009.

Dr. John Hoffman appeared to oppose the rezoning. He stated that he and several others had purchased property there in order to construct a hotel near the site. He advised he had been out of the country on the date the Planning Commission had met. The Planning Commission had voted to recommend approval of the applicant's request to rezone from HR-C Highway Retail Commercial to S-R Suburban Residential. Applicant Debra Barreiro stated she had made the request after being informed the property could not be refinanced due the current zoning.

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

Vice-Mayor Oakes moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-02.01

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AN ORDINANCE REZONING FROM HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT TO S-R SUBURBAN RESIDENTIAL DISTRICT, 178 CRYSTAL LANE AND ADJACENT LOT TO THE EAST.

Council Members Shanks and Tomer agreed they could not support the rezoning. They felt the Highway Retail Commercial designation would be most beneficial.

The Motion **FAILED** by the following vote:

VOTE: 1-7
AYE: Oakes (1)
NAY: Archie, Campbell, Miller, Rawley, Saunders,
Shanks and Tomer (7)
ABSENT: Luther (1).

PUBLIC HEARING - REZONE PROPERTY LOCATED AT 406 JEFFERSON STREET

Mayor Saunders opened the floor for a Public Hearing to consider a request to rezone property located at 406 Jefferson Street for the purpose of using the upstairs as a residential dwelling unit with commercial uses on the ground floor. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009. No one present desired to be heard and the Public Hearing was closed.

Council Member Rawley moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-02.02

AN ORDINANCE REZONING FROM OT-R OLD TOWN RESIDENTIAL DISTRICT TO "CONDITIONAL" CB-C CENTRAL BUSINESS COMMERCIAL DISTRICT, 406 JEFFERSON STREET.

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

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

PUBLIC HEARING - SPECIAL USE PERMIT FOR 411 MAIN STREET

Mayor Saunders opened the floor for a Public Hearing to consider a request for a Special Use Permit for property located at 411 Main Street for the purpose of hosting parties and events for commercial purposes. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009.

Applicant Melissa Charles appeared to answer questions from citizens and Council Members.

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

Council Member Campbell moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-02.03

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW FOR COMMERCIAL INDOOR RECREATION IN ACCORDANCE WITH ARTICLE 3.K, SECTION C, ITEM #5, OF CHAPTER 41 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, SUBJECT TO CONDITIONS AT 411 MAIN STREET.

Council Member Rawley seconded the Motion.

Mr. Rawley stated this issue stresses the need for additional parking in the downtown area. Planning Director Kenny Gillie stated the Planning Commission had no parking concerns relating to this particular issue, but his staff was continually working on securing additional parking for the downtown area.

The Ordinance was adopted by the following vote:

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders, Shanks, and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

PUBLIC HEARING-AMEND ZONING CODE-CHAPTER 41-SPECIAL USE PERMITS

Mayor Saunders opened the floor for a Public Hearing to consider amending and reordaining certain Sections of Chapter 41 entitled, "Zoning Code," of the Danville City Code regarding uses permitted by Special Use Permit. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 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. 2009-02.04

AN ORDINANCE AMENDING AND REORDAINING CERTAIN SECTIONS OF CHAPTER 41, ENTITLED "ZONING ORDINANCE," OF THE DANVILLE CITY CODE, INCLUDING SPECIFIC SECTIONS IN ARTICLE 3.L, ENTITLED "TW-C TOBACCO WAREHOUSE COMMERCIAL DISTRICT," SECTION C, ENTITLED "USES PERMITTED BY SPECIAL USE PERMIT."

Council Member Shanks stated that due to a conflict of interest, he would abstain from voting on this matter.

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

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VOTE: 7-0-1
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
and Tomer (7)
NAY: None (0)
ABSTAIN: Shanks (1)
ABSENT: Luther (1).

PUBLIC HEARING - SPECIAL USE PERMIT AT 315 LYNN STREET

Mayor Saunders opened the floor for a Public Hearing to consider a request for a Special Use Permit to allow for an increase in the maximum density of dwelling units at 315 Lynn Street. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 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. 2009-02.05

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW FOR AN INCREASE IN THE MAXIMUM DENSITY OF DWELLING UNITS IN ACCORDANCE WITH ARTICLE 3.L, SECTION C, ITEM 13 OF CHAPTER 41 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, AT 315 LYNN STREET.

Council Member Shanks stated that due to a conflict of interest, he would abstain from voting on this matter.

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

VOTE: 7-0-1
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
and Tomer (7)
NAY: None (0)
ABSTAIN: Shanks (1)
ABSENT: Luther (1).

PUBLIC HEARING - REZONE PROPERTY LOCATED AT 503 HUGHES STREET

Mayor Saunders opened the floor for a Public Hearing to consider a request to rezone property located at 503 Hughes Street in order to bring a legal non-conforming use into compliance. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009. Habitat for Humanity Executive Director Marlin Yoder was present to answer questions from Council Members and citizens. He informed Council the property would be used as office space and as a limited retail facility.

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

Council Member Rawley moved adoption of an Ordinance entitled:

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ORDINANCE NO. 2009-02.06

AN ORDINANCE REZONING FROM OT-R OLD TOWN RESIDENTIAL DISTRICT TO "CONDITIONAL" HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT, 503 HUGHES STREET.

Council Member Shanks stated that due to a conflict of interest, he would abstain from voting on this matter.

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

VOTE: 7-0-1
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
and Tomer (7)
NAY: None (0)
ABSTAIN: Shanks (1)
ABSENT: Luther (1).

PUBLIC HEARING-AMEND 2020 LAND USE PLAN - 515 CHURCH AVENUE

Mayor Saunders opened the floor for a Public Hearing to consider a request to amend the Year 2020 Land Use Plan and to rezone property at 515 Church Avenue for the purpose of allowing for a funeral home. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009. On behalf of the applicants, who are proposing to construct a funeral home on the property, Clarke Eden, Martinsville, VA, 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. 2009-02.07

AN ORDINANCE AMENDING THE YEAR 2020 LAND USE PLAN FROM NEIGHBORHOOD SERVICE TO COMMUNITY SERVICE AND REZONING FROM S-R SUBURBAN RESIDENTIAL DISTRICT TO "CONDITIONAL" HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT, 515 CHURCH AVENUE.

The Motion was seconded by Vice-Mayor Oakes and carried by the following vote:

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

PUBLIC HEARING-AMEND 2020 LAND USE PLAN - 521 CHURCH AVENUE

Mayor Saunders opened the floor for a Public Hearing to consider a request to amend the Year 2020 Land Use Plan and to rezone property at 521 Church Avenue for the purpose of allowing for a

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funeral home. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009. On behalf of the applicants, who are proposing to construct a funeral home on the property, Clarke Eden, Martinsville, VA, 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. 2009-02.08

AN ORDINANCE AMENDING THE YEAR 2020 LAND USE PLAN FROM PUBLIC/SEMI-PUBLIC TO COMMUNITY SERVICE AND REZONING FROM S-R SUBURBAN RESIDENTIAL DISTRICT TO "CONDITIONAL" HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT, 521 CHURCH AVENUE.

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

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

PUBLIC HEARING-AMEND 2020 LAND USE PLAN - 4849 RIVERSIDE DRIVE

Mayor Saunders opened the floor for a Public Hearing to consider a request to amend the Year 2020 Land Use Plan and to rezone property at 4849 Riverside Drive for the purpose of allowing for a funeral home. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009. On behalf of the applicants, who are proposing to construct a funeral home on the property, Clarke Eden, Martinsville, VA, appeared to answer questions from Council Members and citizens. No one present desired to be heard and the Public Hearing was closed.

Vice-Mayor Oakes moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-02.09

AN ORDINANCE AMENDING THE YEAR 2020 LAND USE PLAN FROM PUBLIC/SEMI-PUBLIC TO COMMUNITY SERVICE AND REZONING FROM S-R SUBURBAN RESIDENTIAL DISTRICT TO "CONDITIONAL" HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT, APPROXIMATELY 0.588 ACRE PORTION OF 4849 RIVERSIDE DRIVE.

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

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

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PUBLIC HEARING-AMEND 2020 LAND USE PLAN-CHURCH AVENUE-EAST SIDE

Mayor Saunders opened the floor for a Public Hearing to consider a request to amend the Year 2020 Land Use Plan and to rezone property on the East Side of Church Avenue for the purpose of allowing for a funeral home. Notice of the Public Hearing was published in the Danville Register and Bee on January 20 and 27, 2009. On behalf of the applicants, who are proposing to construct a funeral home on the property, Clarke Eden, Martinsville, VA, appeared to answer questions from Council Members and citizens. No one present desired to be heard and the Public Hearing was closed.

Council Member Rowley moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-02.10

AN ORDINANCE AMENDING THE YEAR 2020 LAND USE PLAN FROM SUBURBAN SINGLE FAMILY RESIDENTIAL TO COMMUNITY SERVICE AND REZONING FROM S-R SUBURBAN RESIDENTIAL DISTRICT TO "CONDITIONAL" HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT, APPROXIMATELY 0.133 ACRE PORTION OF LAND ON THE EAST SIDE OF CHURCH AVENUE.

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

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders, Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

BUDGET AMENDMENT-FY 2009-LIBRARY OF VIRGINIA-CIRCUIT COURT CLERK

Upon Motion by Council Member Shanks and second by Council Member Campbell, an Ordinance entitled:

ORDINANCE NO. 2009-02.11

AN ORDINANCE AMENDING THE FISCAL YEAR 2009 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR A GRANT FROM THE VIRGINIA CIRCUIT COURT RECORDS PRESERVATION PROGRAM IN THE AMOUNT OF \$14,890 AND APPROPRIATING SAME

was presented by its First Reading, as required by City Charter, to lie over before final adoption.

BUDGET AMENDMENT-FY 2009-IDA-ECONOMIC DEVELOPMENT INCENTIVES

Upon Motion by Council Member Miller and second by Council Member Rawley, an Ordinance entitled:

ORDINANCE NO. 2009-02.12

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AN ORDINANCE AMENDING THE FISCAL YEAR 2009 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FUNDING FOR ECONOMIC DEVELOPMENT INCENTIVES FROM THE GENERAL FUND BALANCE AND APPROPRIATING SAME FOR A TRANSFER TO THE INDUSTRIAL DEVELOPMENT AUTHORITY IN THE AMOUNT OF \$1,000,000

was presented by its First Reading, as required by City Charter, to lie over before final adoption.

ECONOMIC DEVELOPMENT STRATEGY PRIORITY PROJECTS

Council Member Archie moved adoption of a Resolution entitled:

RESOLUTION NO. 2009-02.05

A RESOLUTION APPROVING SUBMISSION OF THE COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY PRIORITY PROJECTS FOR MAINTAINING DANVILLE'S STATUS AS A REDEVELOPMENT AREA UNDER THE ECONOMIC DEVELOPMENT ADMINISTRATION'S PROGRAM.

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

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

FERC ORDER 719-AGGREGATE DEMAND RESPONSE-RETAIL CUSTOMERS

Council Member Shanks moved adoption of an Ordinance entitled:

ORDINANCE NO. 2009-02.13

AN ORDINANCE TO ALLOW ONLY THE CITY OF DANVILLE, VIRGINIA TO AGGREGATE DEMAND RESPONSE OF RETAIL CUSTOMERS IN ACCORDANCE WITH FERC ORDER 719 AND TAKING OTHER ACTION IN CONNECTIONS THEREWITH.

Council Member Archie seconded the Motion.

Assistant City Manager for Utilities Joe King explained that new federal requirements that would allow private utility businesses to recruit electric load management service customers in Danville's utility service territory. He stated the ordinance for Council's consideration would allow AMP-Ohio and American Public Power Association members to opt-out of the requirement. Mr. King further advised the Danville Utility Commission also recommended the opt-out for Danville Utilities.

The Ordinance was adopted by the following vote:

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders,
Shanks and Tomer (8)

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NAY: None (0)
ABSENT: Luther (1).

COMMUNICATIONS

There were no communications from the Interim City Manager, City Attorney, and City Clerk.

ROLL CALL

Several Council Members felt the 20% utility increase as stated by Rev. Motley earlier in the evening was incorrect and wanted to ensure citizens were being provided correct information relating to the price for utilities.

Mr. Tomer reported on the excellent care received at Danville Regional Medical Center recently when he was hospitalized for emergency surgery.

Mayor Saunders expressed sincere appreciation to everyone for all expressions of sympathy received due to the death of his mother-in-law.

CLOSED MEETING

At 8:42 P.M. Mayor Saunders recognized Vice-Mayor Oakes who moved the following:

PLEASE TAKE NOTICE that pursuant to Virginia code Section 2.1-344.1(B), the City Council of the City of Danville, Virginia will hold closed meetings at an undisclosed location within the next fifteen (15) days, starting tomorrow, for the sole purpose of interviewing candidates for the position of City Manager. To satisfy the requirements of Virginia Code Section 2.1-344.1 (B) this notice is hereby announced at this open meeting of City Council this 3rd day of February 2009. I ask that the City Clerk make this announced public notice a part of the minutes of this meeting.

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

VOTE: 8-0
AYE: Archie, Campbell, Miller, Oakes, Rawley, Saunders, Shanks and Tomer (8)
NAY: None (0)
ABSENT: Luther (1).

The Meeting adjourned at 8:43 P.M.

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MAYOR

CITY CLERK