

May 7, 2019

The Regular May meeting of the Danville City Council was held on May 7, 2019, at 7:00 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: James B. Buckner, L.G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Adam J. Tomer, Vice Mayor J. Lee Vogler, Jr., and Madison J.R. Whittle (9).

Staff Members present were: City Manager Ken F. Larking, Deputy City Manager Earl B. Reynolds, Jr., City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

Mayor Jones presided.

INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation was given by Vice Mayor J. Lee Vogler, Jr., followed by the Pledge of Allegiance to the Flag.

COMMUNICATIONS FROM VISITORS

Mayor Jones recognized Dr. David Self, Danville, who discussed gangs and crime in Danville, Council not passing the cigarette tax, the City not accepting certain forms of payment for taxes, the City's logo, and lack of sirens for emergency notifications.

MEETING MINUTES

Upon **Motion** by Council Member Buckner and **second** by Council Member Whittle, Minutes of the Regular Council Meeting held on April 2, 2019 were approved as presented. Draft copies of the minutes had been distributed prior to the meeting.

NEW BUSINESS

PUBLIC HEARING - GRANTING A SPECIAL USE PERMIT FOR A DAYCARE CENTER AT 801 KEMPER ROAD

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit at 801 Kemper Road. Notice of the Public Hearing was published in the *Danville Register & Bee* on April 23, 2019 and April 30, 2019. No one present desired to be heard and the Public Hearing was closed.

Council Member Buckner **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2019-05.01

GRANTING A SPECIAL USE PERMIT FOR A DAYCARE CENTER IN ACCORDANCE WITH ARTICLE 3:E, SECTION C, ITEM 7 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA 1986, AS AMENDED AT 801 KEMPER ROAD, OTHERWISE KNOWN AS GRID 1610, BLOCK 020, PARCELS 000027, 000028, AND 000029 OF THE CITY OF DANVILLE, VIRGINIA ZONING DISTRICT MAP.

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

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,

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Shanks, Tomer, Vogler and Whittle (9)
NAY: None

PUBLIC HEARING – GRANTING A SPECIAL USE PERMIT FOR WAIVER OF MINIMUM LOT SIZE AND YARD REQUIREMENTS ON CAHILL COURT

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit on Cahill Court. Notice of the Public Hearing was published in the *Danville Register & Bee* on April 23, 2019 and April 30, 2019. No one present desired to be heard and the Public Hearing was closed.

Vice Mayor Vogler **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2019-05.02

GRANTING A SPECIAL USE PERMIT FOR A WAIVER OF MINIMUM LOT SIZE AND YARD REQUIREMENTS IN ACCORDANCE WITH ARTICLE 3.O, SECTION C, ITEMS 20 AND 25 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, AT PARCEL ID#S 20833, 20834, 20835, AND 20837 ON CAHILL COURT. OTHERWISE KNOWN AS GRID 1711, BLOCK 006, PARCELS 000012, 000011, 000010, AND 000009 OF THE CITY OF DANVILLE, VIRGINIA ZONING DISTRICT MAP.

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

VOTE: 8-0-1
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Tomer, Vogler and Whittle (8)
NAY: None
ABSTAIN: Shanks (1)

STATEMENT OF CONFLICT OF INTEREST

I, Fred O. Shanks, III, do hereby state that I have a conflict of interest regarding the consideration of an Ordinance granting a Special Use Permit for a Waiver of Minimum Lot Size and Yard Requirements on Cahill Court listed on the Agenda as New Business item (B). Therefore, pursuant to the State and Local Government Conflict of Interest Act, Virginia Code §2.2-3112, I must abstain from voting on this agenda item.

Witness my signature this 7th day of May, 2019.

s/Fred O. Shanks, III

PUBLIC HEARING – AMENDING THE ZONING CODE REGARDING HOME OCCUPATIONS AND HOMESTAY FACILITIES

Mayor Jones opened the floor for a Public Hearing to Amend the Zoning Code regarding Home Occupations and Homestay Facilities. Notice of the Public Hearing was published in the *Danville Register & Bee* on April 23, 2019 and April 30, 2019. No one present desired to be heard and the Public Hearing was closed.

Vice Mayor Vogler **moved** for adoption of an Ordinance entitled:

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ORDINANCE NO. 2019-05.03

AMENDING CHAPTER 41, ENTITLED "ZONING ORDINANCE" OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, MORE SPECIFICALLY ARTICLE 2, ENTITLED "GENERAL REGULATIONS", SECTION T, ENTITLED "HOME OCCUPATIONS", AND ARTICLE 15, ENTITLED "DEFINITIONS", SECTION B, ENTITLED "DEFINITIONS" TO AMEND REGULATIONS REGARDING HOME OCCUPATIONS, AND HOMESTAY FACILITIES.

The Motion was **seconded** by Council Member Buckner.

Council Member Shanks questioned Senior Planner Bryce Johnson regarding homestays, were they allowed without a special use permit; Mr. Johnson stated based on the current motion they would be allowed without a special use permit. Vice Mayor Vogler noted for clarification, this was for room only, not whole house, and Mr. Johnson stated that was correct. Mr. Shanks questioned if it was a homestay, how many people can stay in the home other than the landowner, and Mr. Johnson noted it says up to two rooms, they did not place a limit for the number of people. Regarding parking, this was treated as a home occupation, as a residential use where they don't necessarily look at parking.

Council Member Shanks stated he thought when Council met in work session, the majority of people wanted a special use permit to remain part of the process. His concern was parking; on West Main and many streets, there are parking issues. When a new occupation is introduced for people to stay, it will further complicate parking issues. He was concerned that a special use permit was being taken out of the code for a homestay and would ask each Council Member to consider people who own property when they vote. When there is no opportunity for public input, it will be approved by right.

Vice Mayor Vogler invited Harold Garrison from the Planning Commission to comment. Mr. Garrison noted he could share his thoughts but would not speak for the Planning Commission. There were five people at the meeting, with an hour and twenty minutes of discussion and they reached this conclusion collectively; it was not unanimous. Mr. Garrison noted one speaker at the meeting wanted this to be by right in the historical overlay districts only.

Vice Mayor Vogler noted two separate things have been put together in the one motion; one was the homestay and the other a change for home based businesses. Home based businesses are going to be a growing part of the economy in the years ahead, and Danville should be perceived as being friendly when it comes to that. He was fine with the homestay portion as well, they are not talking about the whole home, but two rooms at most. What staff has put forward was in line with other localities that deal with this type of situation. Mr. Vogler noted if there were Council Members that have issue with one part, he would like to separate the two votes; he doesn't want one part to fail because of an issue with the other part. Council Member Tomer noted his agreement, he also wished both items had been considered separately, and he also had no issue with the home based business item.

Mayor Jones questioned Council if they had any objection to Tabling this item to discuss it further. Mr. Tomer questioned if they could extract the Home Based Business and vote on that portion and Table the Short Term Rental. City Attorney Clarke Whitfield explained Council would do a Substitute Motion to pass only the regulations with regard to home occupations; staff will redraft the Ordinance and come back at a different time with the homestay. Mr. Tomer made a motion for a Substitute Motion to vote on the portion of the Ordinance pertaining to the home based business and table the short term rental portion; Mr. Shanks

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seconded the Motion. Mr. Whitfield noted Council would want to vote on the home based business and eliminate all references to the homestay. Mr. Tomer and Mr. Buckner noted they could discuss the homestay item after this vote.

Mr. Whitfield explained there was a Substitute Motion on the floor; that Substitute Motion would take out all references to room sharing and only leave the references to home based business. Council would either vote to approve that Substitution made by Mr. Tomer or not. If Council does approve that, then Council would vote on the actual motion as substituted.

The **Motion** for Substitution was carried by the following vote:

VOTE: 8-1
AYE: Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (8)
NAY: Buckner (1)

Mr. Whitfield explained the Motion has now been Substituted and Council needed to vote on the Motion as Substituted. Since the other part has been cut out, there will not be a need for Tabling, it will be brought back at a separate time. Vice Mayor Vogler questioned why it could not be given a separate vote.

Council voted on the Substituted Motion, an Ordinance entitled:

ORDINANCE NO. 2019-05.03

AMENDING CHAPTER 41 ENTITLED "ZONING ORDINANCE" OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, MORE SPECIFICALLY ARTICLE 2, ENTITLED "GENERAL REGULATIONS", SECTION T, ENTITLED "HOME OCCUPATIONS", ITEM 10 TO AMEND REGULATIONS REGARDING HOME OCCUPATIONS, AND HOMESTAY FACILITIES.

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

Council Member Bucker questioned if Council could discuss the Homestay portion or if it was something that had to be done at a later date and Mr. Whitfield noted it was up to the Chair; Mayor Jones stated they could.

Council Member Buckner **moved** that Council vote on the Homestay portion of the original item, an Ordinance entitled:

ORDINANCE NO. 2019-05.04

AMENDING CHAPTER 41 ENTITLED "ZONING ORDINANCE" OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, MORE SPECIFICALLY ARTICLE 2, ENTITLED "GENERAL REGULATIONS", SECTION T, ENTITLED "HOME OCCUPATIONS", ITEM 10, AND ADDING AN ITEM 17 AND ARTICLE 15, ENTITLED "DEFINITIONS", SECTION B, ENTITLED "DEFINITIONS" TO AMEND REGULATIONS REGARDING HOME OCCUPATIONS AND HOMESTAY FACILITIES

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The Motion was **seconded** by Vice Mayor Vogler.

Vice Mayor Vogler stated this was about a room or two rooms, not an entire house, and has been a positive thing for a number of localities. It has been publicized and on the agenda, no one came tonight to speak and he has not received a phone call or email from anyone who is opposed to it; people have reached out to say it needs to happen. Council Member Tomer questioned if the short term home rental was part of this as well, in which it was a whole home and Mr. Larking noted it was not. Mr. Tomer noted he shared some of Mr. Shanks' concerns, but he does want to streamline this process and this is close to what Blacksburg is doing. Mr. Shanks stated the comment was made that many other localities have made the same changes; he thought when Council had the discussion that there was a large variance between municipalities and how these were handled; Mr. Johnson noted there was, for an entire home. When addressing just the homestay, they are leaning toward allowing it by right. Mr. Shanks noted he believed people need to have the opportunity for input in particular with parking issues or other issues in the neighborhood.

Mr. Whittle questioned if this would be subject to the rental inspection program and Mr. Johnson noted it would not as it was. Mr. Gillie explained if someone wishes to do a homestay in a house that is in a rental inspection area, then it would be subject to a rental inspection program. If the homestay is outside, such as on West Main Street, it would not be subject to special inspections. Council Member Miller noted in the past he rented a room in a house in Richmond for several months while he was in school; there were no inspections or regulations. This was going on everyday, a lot of students and residents are renting rooms in the City and for the City to regulate it would be out line.

The **Motion** was carried by the following vote:

VOTE: 7-2
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Tomer, and Vogler (7)
NAY: Shanks, Whittle

PUBLIC HEARING – CONSIDERATION OF ADJUSTING UTILITY RATES FOR UTILITY SERVICES

Mayor Jones opened the floor for a Public Hearing regarding Utility Rates. Notice of the Public Hearing was published in the *Danville Register & Bee* on April 26, 2019 and May 3, 2019.

Mayor Jones recognized Seth Lackey, one of the pastors at Faith Memorial Baptist Church, 7450 Martinsville Highway, Danville, VA representing the pastoral staff, deacon board and congregation. Mr. Lackey asked Council to take into consideration what churches are currently doing in the community, reviewed the programs in his church, and asked that Council consider that decisions they make affect the local churches, ministry, children and families they support.

Mr. Tomer noted in the past, the sanctuary, worship rate in Danville historically was made because churches operated only about two days a week, and asked if anyone knows the history of that. Council Member Shanks noted the Utility Commission discussed the worship sanctuary rate study, which was provided as part of the overall rate study. It was a net neutral change, but it was to encourage churches and facilities in that rate group to move toward energy efficiency, realizing what churches were very inefficient and what churches were very efficient, and make a fairer division of how it is broken down. With Mr. Lackey's church, with

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the demand charge, the net result is a 6% increase; there are churches that have 33 or 34% increases. The Utility Commission recognized the type of constraint that would take place with the churches with the rate increase and asked that the rate not go into effect until the second year of the biennial rate study. Danville Utilities has promised the Utility Commission to work with the churches.

Director of Utilities Jason Grey noted as far as the worship rate design, when the City does rate setting, they look at each customer class and how it supports itself, not how one supports another. Staff noticed in the past biennial rate study that the worship rate was not carrying its cost of service to provide service to the worship rate customers. The rate consultant found a way to make it revenue neutral to the City but reward churches that are being more energy efficient, allow the City to reach out to the churches that need help through the City's energy efficiency program and get them back on the right track. The Utility Commission also gave the City a set time to meet with all the churches; out of 161 churches on the worship rate, 67 will see a decrease and 94 will see an increase. If the City does not try to get the worship rate to the appropriate cost of service, the other customer classes will be subsidizing that rate; they want to try to avoid that.

Council Member Tomer questioned if other non-profits have a special rate and Mr. Grey noted they do not, this was only for churches, and Mr. Tomer was correct, this rate was only designed for places of worship that were open on Wednesdays and Sundays. Mr. Tomer stated that was his concern, now churches are open seven days; they are different than they were. Mr. Tomer asked if a church has a school attached to it, what does the school pay and Mr. Grey explained the worship rate has a definition that the sanctuary has to be connected to the rest of the church, if not, then the sanctuary only was eligible for the worship rate; the fellowship hall and any other buildings are billed commercial business rates. Mr. Tomer questioned if the church was attached to the schools and Mr. Grey explained if the school was attached to the sanctuary then it would be eligible for the worship rate. Mr. Grey noted non-profits were probably on a small business or medium business rate, higher than the worship rate. Mr. Tomer noted he hated that the rates are going up for them but at the same time, he does not think it was fair that citizens are subsidizing the rates of some. Mr. Tomer noted some of them are pretty busy, running daycares and schools, after school programs, worship services or bible studies everyday, and Mr. Grey stated that was growing out of the definition of what the City envisioned.

Council Member Shanks stated the motion presented to Council tonight was set to where the sanctuary rate will go into effect July 1, 2020 and Mr. Grey has committed to approach approximately ninety churches that need to work on their efficiency. The Utility Commission was adamant about seeing that happen, Council should be as well. Council Member Campbell noted the statement about the 6% increase, will that be an average and Mr. Grey stated it varies by customer profile, how much energy they use and hours of operation.

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

Council Member Shanks **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2019-05.05

ADJUSTING UTILITY RATES FOR UTILITY SERVICES EFFECTIVE JULY 1, 2019.

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

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VOTE: 5-4
AYE: Buckner, Jones, Miller, Saunders, Shanks (5)
NAY: Campbell, Tomer, Vogler and Whittle (4)

AMENDING THE DANVILLE CITY CODE FOR REVISIONS TO THE REAL ESTATE TAX ABATEMENT PROGRAM

Council Member Buckner **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2019-05.06

AMENDING ARTICLE XI, ENTITLED "PARTIAL EXEMPTION OF REAL ESTATE TAXES FOR CERTAIN REHABILITATED OR RENOVATED REAL ESTATE," OF CHAPTER 37, ENTITLED "TAXATION," OF THE DANVILLE CITY CODE TO ALLOW FOR REVISIONS TO THE REAL ESTATE TAX ABATEMENT PROGRAM.

The Motion was **seconded** by Vice Mayor Vogler.

Council Member Shanks noted he has had a change of heart, but had been very much opposed to this program. The City had been actively using this as an incentive in the River District, the White Mill had been taken out and this item was putting it back into the rebate zone. Mr. Shanks stated he understands the importance of this particular motion and will be supporting it, but hopes the City will take a closer look at how many properties are being incentivized by this program. Vice Mayor Vogler noted his support of this item and appreciates Mr. Shanks comments. This building was once a part of the program and was now returning to it. It will provide certainty to developers who are looking to make this project happen. Council Member Saunders noted this was a win-win for the City and the blight program will be impacted by this in a very good way. Council Member Miller stated he considered that area part of the River District and if the City ever wants to get it developed, they will have to give some tax abatements for that.

The **Motion** was carried by the following vote:

VOTE: 8-1
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, and Vogler (8)
NAY: Whittle (1)

PUBLIC HEARING – CONSIDERATION OF APPROVING THE FISCAL YEAR 2020 DANVILLE PUBLIC SCHOOLS BUDGET

Mayor Jones opened the floor for a Public Hearing regarding the Danville Public Schools Budget. Notice of the Public Hearing was published in the *Danville Register & Bee* on April 26, 2019.

Mayor Jones recognized Cecil Bridgeforth, 709 Edmonds Street, Danville, who noted his concern was for the children and questioned, what does Council expect for their investment in the schools. Council gives the schools money, what do they expect in return. He suggested Council go on line, pull up test scores and graduation rates and see where Danville Schools stand.

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Mayor Jones recognized Harold Garrison, 4180 Westover Drive, Danville, who noted the \$2M that was given to the School system last year was very wisely used to increase teacher pay and Danville now has 97% full time, licensed classroom teachers. Before that, some of those classes had been taught by long term substitutes that were not qualified to teach those subjects. The school system will only be as good as the classroom teachers.

Mayor Jones recognized Dr. David Self, 174 Millerton Road, Danville, noting he taught in public schools for almost thirty years and stated there was a point of diminishing returns. He has studied the situation in Danville, there seems to be no progress and does not know if the new superintendent was going to make any progress. Dr. Self questioned the money given to teachers for salaries, was that in anyway affected by the money the State set aside for teachers salaries. Mayor Jones suggested he speak with the City Manager regarding this.

Mayor Jones recognized Seth Lackey who noted he works as a young families and children's pastor, and thinks people ask too much from the educators, to help in so many different areas. The responsibility to bring up children begins with the parents; those children who do not have two parent homes or do not have support systems are at higher risk. He does not know how the City can help in this area but encouraged them to think more in that capacity with the education system, then they will see grades rise, violence lowered and more productive young people.

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

Upon **Motion** by Vice Mayor Vogler and **second** by Council Member Saunders, a Resolution entitled:

RESOLUTION NO. 2019-05.01

APPROVING THE BUDGET OF THE SCHOOL BOARD OF THE CITY OF DANVILLE FOR THE FISCAL YEAR ENDING JUNE 30, 2020.

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

COMMUNICATIONS

There were no communications from the City Manager, Deputy City Manager, or City Clerk. City Attorney Clarke Whitfield noted his condolences are with the Archie Family on the passing of Cephus Archie.

ROLL CALL

Council Member Whittle questioned Mr. Thomas' light on Manchester; Mr. Larking noted he discussed this with Mr. Grey who explained the City has a solution with a specially designed light being installed; staff is working with Mr. Thomas. Mr. Whittle noted the Junior Wednesday Club did a great job with Touch a Truck at Averett.

Council Member Buckner questioned as a follow up to Dr. Self's remark about debit cards not being accepted at the Charles Harris Financial Center, and Mr. Larking explained citizens can pay on-line with a debit or credit card; Mr. Buckner requested staff to look into that. Make Danville Shine was an outstanding event and he enjoyed serving hot dogs with other Council Members.

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Council Member Campbell sent his regards to the Archie Family, Mr. Archie was a good man, and wished every mother a Happy Mother's Day.

Council Member Miller stated Make Danville Shine was a great event, and discussed Council's visit to Essel Propak. They have hired thirty-one new people with their \$31M expansion. Today, Council visited the new Care Clinic, a place for City Employees and dependents to receive medical care. Dr. Miller wished citizens a Happy Mother's Day.

Council Member Saunders noted he also enjoyed the Make Danville Shine event, and also attended the Girls with Pearls banquet at Westwood Middle School sponsored by Links; Ty'quan Graves was the speaker. A new program started at Schoolfield sponsored by Links, helping youth in the community be successful in school. Mr. Saunders noted his sympathies to the Archie family, and also the Chandler family on the passing of DeLisa Branch-Chandler.

Council Member Shanks noted prayers and speedy recovery to Vicky Farmer, and looks forward to her return to work.

Council Member Tomer thanked Harold Garrison, if the City had more citizens that took the time to be involved, the City would be everything they wanted it to be.

Vice Mayor Vogler echoed Mr. Tomer's comments, Mr. Garrison attends Council Meetings, he has had great conversations with him over the years, they don't always agree, but he appreciates his comments. Make Danville Shine was fantastic, he and his family then visited the new Crescent Crossing at the Danville Science Center. It is the first step of a multi-year, multi million dollar renovation. The exhibit is designed specifically for children five and younger. The City employee health care clinic opened today and will be a great thing for City employees, and will save taxpayer money. Mr. Vogler noted he and Dr. Miller had advocated for the transition to propane fueled vehicles; so far that transition has saved taxpayers \$97,668.

Mayor Jones thanked everyone who attended tonight, noted his agreement on what has been said with regard to Mr. Garrison, and thanked Mr. Bridgeforth for his service to the community. Mayor Jones noted Danville Community College's graduation was this weekend and the Danville Neighborhood Leadership Conference's first conference was this Friday and Saturday. Mayor Jones noted his condolences to the Chandler family and the Archie family. The City has a new intern, Tim Karhaapa, who will be working as an intern in the Mayor's office. Mayor Jones noted two Council Members will be serving on the Education Compact Committee, Mr. Saunders and Dr. Miller.

The meeting adjourned at 8:30 p.m.

APPROVED:

s/ Alonzo L. Jones
MAYOR

ATTEST:

s/ Susan M. DeMasi, CMC
CITY CLERK