

March 5, 2019

A Regular Work Session of the Danville City Council convened on March 5, 2019 at 7:38 p.m. in the Conference Room located on the Fourth Floor of the Municipal Building. Council Members present were: 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 Larking, Deputy City Manager Earl B. Reynolds, Jr., City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

Mayor Jones presided.

### **MINUTES**

Upon **Motion** by Council Member Buckner and **second** by Council Member Shanks, Minutes from the Special Joint Work Session held on January 23, 2019, were approved as presented. Draft copies were distributed to Council Members prior to the Meeting.

### **CLOSED MEETING**

At 7:39 p.m., Vice Mayor Vogler **moved** that this meeting of the City Council of Danville, Virginia be recessed and that Council immediately reconvene in a Closed Meeting for the following purposes: discussion or consideration of the acquisition and/or disposition of real property for a public purpose where discussion in an open meeting would adversely impact the bargaining position of the City as permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended, more specifically to consider both the acquisition of a specific parcel or parcels of real property as well as the disposition of a specific parcel or parcels of real property; and to consider an Economic Development discussion and update concerning prospective business or industry where no previous announcement has been made and/or the expansion of an existing business or industry where no previous announcement has been made as permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950 as amended, and more specifically to consider the location of a prospective new business or industry to the area and expansion of an existing business or industry.

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

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

Upon unanimous vote at 9:24 p.m., Council reconvened in open session and Vice Mayor Vogler **moved** for adoption of the following Resolution:

### **CERTIFICATE OF CLOSED MEETING**

WHEREAS, the Council convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia, 1950, as amended, requires a Certification by the Council that such Closed Meeting was conducted in conformity with Virginia Law;

March 5, 2019

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements of Virginia Law under Section 2.2-3711 were heard, discussed or considered, and (ii) only such public business matters as were identified in the Motion by which the Closed Meeting was convened were heard, discussed or considered by the Committee.

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

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

After discussion, Council agreed to have a special work session on the Land Bank item and remove it from this evening's agenda.

### **CONSIDERATION OF THE CITY OF DANVILLE ENTERING INTO A REVISED PURCHASE POWER AGREEMENT WITH TURNING POINT ENERGY**

Director of Utilities Jason Grey explained Council had approved moving forward with the ten megawatt project in Whitmell in October. The Company is going through the state DEQ process and the DEQ has requested that they split the project into two, five megawatt projects to help simplify the permit process. The City has to go back and have two separate LLCs, and two separate interconnection agreements for two separate, five megawatt solar farms. Mr. Grey noted if the Company gets through the permitting process with DEQ, the project would start later this fall.

Council agreed to put this on an upcoming business agenda.

### **REVIEW OF REGULATIONS ON BED AND BREAKFAST ESTABLISHMENTS**

Mr. Larking asked the City's Commissioner of Revenue, James Gillie, to speak about agreements with Airbnb. Mr. Gillie stated he knows of no city in Virginia, as of today, that has signed an agreement with Airbnb; some of the towns and counties have. He reached out to Montgomery County and spoke with their finance people. The issue they had was they didn't have anybody specifically assigned to monitor them, so they signed the agreement with Airbnb strictly because something was better than nothing. Mr. Gillie noted he does not have a colleague in the State, that he knows of, that is going to sign an agreement like that; Airbnb collects the money and then gives it back to the locality at their discretion, with no way to audit when the money comes back to the City. Vice Mayor Vogler noted Blacksburg has done it, has Mr. Gillie reached out to them; their website states Airbnb collected \$27,000 for Blacksburg after their agreement. Mr. Gillie noted in the City's situation, the City does have the staff to do it, they have someone who does it for hotel/motels. Dr. Miller questioned why doesn't the City do it and Mr. Larking noted they do. Mr. Gillie stated the City has the ability to audit; with Airbnb, the City would not have that authority. Mr. Larking noted his understanding was that an agreement with Airbnb would have to be with the Commissioner of Revenue; it not up to City Council.

Director of Community Development Ken Gillie noted Senior Planner Bryce Johnson has done most of the research on this matter. Mr. Johnson stated there has been some discussion about short term rentals, and the City has had a few special use permit applications approved last year. Staff looked into short term rentals, the research is all over the place but staff recommends the City stay with the special use permit process for short term rentals. Mr. Vogler questioned how

March 5, 2019

that compares to other localities and Mr. Johnson stated every locality is different, it is still new enough that there is no consensus across the board. Some have moved to make it more streamlined and by right; some that have done that are moving back to the special use permit process. Mr. Vogler questioned if the City is still making applicants go through the process of being a commercial bed and breakfast and Mr. Johnson noted they are; if they are doing the short term rental out of their home, they go through the process. Mr. Buckner questioned if you have a commercial bed and breakfast, you have to have it staffed 24 hours a day and Mr. Johnson noted there has to be someone living there.

Mr. Vogler stated localities do homestay ordinances, they are different from a commercial bed and breakfast process, why wouldn't the City just do that. Why is the City classifying someone who wants to rent out a room in their home as someone who is running a full fledged bed and breakfast. Mr. Johnson stated they could be classified differently, but staff does suggest keeping the current process; it would make to sense to define them differently for clarification. Mr. Vogler stated his thought was to try to make this process more streamlined and easier. He does not see anything in staff's research, not in option 1, but maybe option 2, to benefit them at all or how this addresses any of the concerns brought up by Mr. Doss. Mr. Tomer noted with both options they would have to live there, which he didn't think was going to be a part of it.

Mr. Larking asked Council for direction for staff, does Council want the ability for people to have short term rentals through these websites in any neighborhood without any process or do they want to have some process. Mr. Shanks noted he recently went through this process and a compromise came out of it; he thinks it is imperative they have a special use permit or something similar to that, where they have to go through a public hearing with the Planning Commission, get a recommendation and a public hearing with City Council.

The Commissioner of Revenue reminded Council that whatever they do, these people are a business, they need to get a business license, collect their hotel/motel tax, and remit it back to him. If there isn't an ordinance, it will be difficult for him to enforce any of those things. He would also like to see a registration; things in place like that can help his office monitor and collect the money due. Mayor Jones noted the City Manager is asking for some direction on exactly how Council wants it developed, exactly what does Council want. Mr. Tomer noted he sent the City Manager what Blacksburg is doing; there is a homestay application, with two different kinds of homestay, but the person does have to live there as well.

Director of Community Development, Ken Gillie noted they have a definition for bed and breakfast which doesn't fit; they recommend a homestay definition which will define what it is, to not have to provide breakfast and everything else. Mr. Gillie stated it still comes down to, do they need a special use permit or not. Staff's recommendation is yes, because of the situation Council Member Shanks just had. It got the neighbors involved, they knew what was happening with the property, what would be done with parking, especially if this happens up on West Main and Virginia, places like that where parking is premium. It also allows staff a chance to address life safety issues such as smoke detectors and means of egress on doors. Staff wants to make sure if there is a problem in the house, people are safe, that is why staff recommended going through the special use permit process. If Council wants staff to change it and not have them go through the special use process, staff still thinks the registration process is necessary, just to protect the interests of the people. There should be some sort of notification given to neighbors if it is a by-right, so the neighbors know what is going on; now it is a business, the house is no longer just a single family home.

Mr. Tomer noted he wants to protect the value of the homeowners in the area since it is a business, but hopes the City can separate it and have a legal definition of homestay. If there is a special use

March 5, 2019

permit, it is pertinent on them meeting, for example, the things in the Blacksburg outline. Mr. Buckner noted it is something Council needs to address, and look at what Blacksburg and Christiansburg and all those other areas are doing. The City does need to be able to collect taxes on it. The Commissioner of Revenue, Mr. Gillie noted in a lot of ordinances he has seen, they limit how many times it can be rented a week, and how many people are there. If that is what Council is talking about, he thinks that is a good way to go.

Mr. Larking noted based on the conversation, the majority of Council wants to streamline the process in some way, but that some minimal registration would be acceptable to make sure they meet some minimum requirements. Council wants a legal definition for short term rental separate from bed and breakfast, and a separate process different from bed and breakfast so there is a clear line of differentiation between the two types of uses. Staff would forward that to the Planning Commission for their discussion; they would come back with a recommendation in conjunction with staff, to Council later.

Mr. Vogler noted he agrees with Mr. Buckner, he would like to revisit that the person has to live in the house, there are plenty of places where that is not the case. Dr. Miller noted he believed it needed to be streamlined as much as possible, he would agree with registering, but it shouldn't be too burdensome on the homeowners. Mr. Shanks noted his agreement with Mr. Tomer, that Blacksburg has good guidelines to use, having the public hearing process for a special use permit, City Council should be a part of the process, and the new code section that is not a bed and breakfast.

### **COMMUNICATION**

Dr. Miller noted he was in Abington, they have a nice downtown and about every block or two they have signs up listing all the events for the season; could the City Manager to look into this to see if it was feasible for Danville.

Vice Mayor Vogler noted the point was raised that the City has a great number of trash receptacles through the River District, but mention has been made that the area around Averett and West Main have long stretches without receptacles for people to put trash in.

Mayor Jones noted they did not invite every Council Member to the Holiday Basketball Tournament meeting because it would require a public notice, but the next meeting is April 8, 2019, 5:30 p.m. in the second floor conference room, invited Council Members, and asked staff to have a public notice done. Mayor Jones noted they are trying to keep the costs as minimal as possible, the cost in the past was for visiting teams who asked for a stipend to come to the City. Other than that, the biggest cost was Averett; Vice Mayor Vogler noted they are looking at having it at GW.

MEETING ADJOURNED AT 10:01 P.M.

APPROVED:

s/ Alonzo L. Jones  
MAYOR

ATTEST:

s/ Susan M. DeMasi, CMC  
CITY CLERK