



## **DANVILLE CITY COUNCIL WORK SESSION AGENDA**

### **MUNICIPAL BUILDING**

**May 7, 2019**

**7:30 P.M.**

#### **MEETING CALLED TO ORDER**

#### **MINUTES**

- A. Consideration of Approval of Minutes from Regular Work Session held on March 19, 2019 and Special Work Session held on March 19, 2019.  
Council Letter Number CL - 2100.

#### **WORK SESSION ITEMS**

- A. Consideration of Authorizing the City Manager to Renew the Community Garden License with Right Touch Christian Church.  
Council Letter Number CL - 2098.

#### **ECONOMIC DEVELOPMENT UPDATE**

#### **PROGRAM UPDATE**

#### **COMMUNICATIONS FROM**

- A. City Manager
- B. Deputy City Manager
- C. City Attorney
- D. City Clerk

E. Roll Call

**CLOSED MEETING**

As Permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion or consideration of the acquisition of real property or of the disposition of publicly held real property.

As Permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion concerning a prospective business or industry related to economic development.

- A. Motion to Convene in Closed Meeting
- B. Motion to Reconvene in Open Meeting
- C. Motion to Certify Closed Meeting

**ADJOURNMENT**

# Council Letter

## City of Danville, Virginia



**CL-2100**

**Meeting Minutes Item #: A.**

**Work Session Meeting**

**Meeting Date:** 05/07/2019

**Subject:** Consideration of Approval of Meeting Minutes

**From:** Susan M. DeMasi, City Clerk

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### **COUNCIL ACTION**

Work Session Meeting: 05/07/2019

### **SUMMARY**

Consideration of Approval of Minutes from Regular Work Session held on March 19, 2019 and Special Work Session held on March 19, 2019.

Council Letter Number CL - 2100.

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### **Attachments**

Meeting Minutes

Meeting Minutes

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March 19, 2019

A Regular Work Session of the Danville City Council convened on March 19, 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, Fred O. Shanks, III, Vice Mayor J. Lee Vogler, Jr., Adam J. Tomer and Madison J.R. Whittle (8). Sherman M. Saunders was absent (1).

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 Shanks and **second** by Council Member Buckner, Minutes from the Regular Work Session held on February 5, 2019, were approved as presented. Draft copies were distributed to Council Members prior to the Meeting.

## **REVIEW OF GENERAL FUND FINANCIAL REPORT AS OF FEBRUARY 28, 2019.**

Mayor Jones noted Council has read the General Fund Financial report and asked if they had any questions for the Director of Finance. Council had no questions for Mr. Adkins.

## **CONSIDERATION OF AMENDING THE FISCAL YEAR 2019 BUDGET APPROPRIATION ORDINANCE FOR VDOT REVENUE SHARING PROGRAM FUNDS**

City Engineer Brian Dunevant noted this item was to appropriate project allocations from the Virginia Department of Transportation for three projects, South Union Street, the 600 block of Main Street, and Riverside Drive for a construction project between Audubon and Arnett.

Council Agreed to put this item on an upcoming business agenda.

## **CONSIDERATION OF AFFIRMING THE CITY'S COMMITMENT TO FUNDING THE LOCALITY SHARES OF APPROVED PROJECTS WITH VDOT**

City Engineer Brian Dunevant noted this item was to affirm the City's commitment to fund its portion of the approved transportation projects from VDOT and to give the City Manager the authority to sign project documents if necessary.

## **MULTI-YEAR BUDGETING UPDATE**

City Manager Ken Larking reviewed his power point *Multi Year Planning Update* (a copy of which has been retained on Laserfiche in the Clerk's Folder, Presentations to Council.)

Mr. Larking noted the purpose of the presentation was to update City Council. The committee for the multi year plan has a number of members who have been working for many months on this; Mayor Jones asked two council members, Council Member Shanks and Council Member Tomer to be added to that committee. That group has worked diligently to review the recommendations of the National Resource Network's Multi Year Plan and to make recommendations on what the City should be doing moving forward. The first step was to develop initiatives that would help with those three target areas; not all the initiatives have been included in the budget.

March 19, 2019

Mr. Larking explained Public Safety includes Police Headquarters, Comprehensive Crime Reduction, ensure competitive pay and benefits, increase use of technology, create community resource centers and hire an additional animal control officer.

Improve Education was identified in the City's plan and in the school's plan; both the City of Danville and Danville Public Schools have done five year financial planning. The City's per pupil spending lags behind peer communities at about \$4.2M on average; if the City is truly invested in education, it needs to give them the resources they need to be successful. The City would have to increase funding \$4.2M additionally, annually; the group had discussed how to get to that point in a way that makes sense. Other initiatives include expanding Smart Beginnings, and addressing school infrastructure needs. The school board identified \$120M of capital needs to renovate just four of their schools. To be able to raise the revenue necessary to pay for that debt service, there would have to be a bond referendum. The voters would have to approve it, and there would be a corresponding tax increase to pay that. Halifax County was getting permission to hold a referendum to allow a 1% local option sales tax to pay school infrastructure needs. It would be a good way to generate funds to help pay for school construction and renovation needs. In Danville, it would generate \$9M that could go toward debt service, which would equate to \$150,000,000 of renovations. Last year City Council approved the school system retaining more than the normal amount of their carry forward funding to pay for pay increases and a new pay plan for teachers. That \$2M is an annual need and carryforward money is a one time revenue source. Because of the new pay plan and the teacher pay increases, instead of having 80% of positions filled, this year they had 97% filled; there are fewer substitute teachers teaching children in the classrooms.

Mr. Larking noted another initiative would be to create more workforce pipelines; the City currently has precision machining, there is work right now to do something with information technology, in cyber security. A Go Virginia grant was recently awarded; the school system will need a place to house that operation. Having the funding necessary to help continue to create new workforce pipelines for the students so they can be successful, will be key.

Mr. Larking explained another initiative was to Improve the Local Economy, including getting an Economic Development Strategic Plan with a Housing Focus. Mr. Larking noted housing is extremely important to Danville; the City needs to do as much as it can to improve the housing market. There hasn't been an economic development strategic plan update in many years with a housing focus; it would be very helpful to Danville. Real Estate values have gone up in every category except for residential and that was an issue that needs to be addressed. Also, the City wants to be able to sustain economic development without having to use fund balance; having a current revenue stream that pays for economic development efforts would be important. Sports Tourism has been discussed; a presentation will be seen in the next few council meetings related to the work of the City's Sports Tourism Group. The Riverfront Park is also something the City is doing, and major gift fundraising is underway.

Mr. Larking reviewed the Economic Development Outcomes for the past five years, including performance agreements signed, total jobs and investment committed, grants funds and the anticipated return on investment. In the River District, about \$5M of total grant funds have been committed, \$3.8M has been distributed, new revenue generated to date is \$1.7M and the average age of the projects is 3.23 years. The average time it takes to get the performance agreement signed and the start of operations is almost one year in the River District. For industrial projects, the total amount of grant funds committed is \$2.1M, about half of that has been distributed and some of the grant commitments are shared with the County on joint projects. The average age of these projects is 2.67 years and the average time to start is about 1.4 years. Mr. Larking explained, four companies during that time period, and many occurred prior to the current economic

March 19, 2019

development team, were non-performing grants totaling about \$300,000. Economic Development was taking legal measures against these companies and was confident they will be able to get half returned. For successes, eight companies have passed the break even point compared to the total amount of grant funds distributed, and five companies have passed the break even point compared to the total amount of funds committed. Break even projections is that by 2024, the City will have broken even on all forty three projects that have been identified.

Mr. Larking reviewed tax revenue trends which include economy driven taxes such as sales, meals, and hotel tax, and machinery and tools; each has grown in this period of time. Over half of the total real estate base is residential; that has been very flat and decreased over time. In the last reevaluation, the residential real estate tax base decreased by 2.65%; there have been increases in the other areas, but overall it has been fairly flat. Multi-family increased 13.14% and commercial industrial increased 6.26%. Because there has been very slow or negative growth in residential, it has held the overall increase to only 1.2%.

Mr. Larking explained subcommittees were formed as part of the group; they broke up into cost savings subcommittee, the personnel benefits subcommittee and the revenue subcommittee. Each of them worked on ways to close the long term gap. By 2023, the City would have \$6M left in fund balance; since the City has made some changes, the current outlook based on the budget he is working on right now, shows it at \$13.8M for FY 2023, but still shows over the long term a dwindling fund balance which needs to be addressed. The City is in better shape then before because of some steps it has been taking.

Mr. Larking reviewed cost savings measures which include the health insurance plan design changes which eliminated \$879,000 of increased cost. Staff did a dependent eligibility verification audit, which is not complete, but they anticipate \$200,000 a year in premium savings. The City is getting ready to open the employee health clinic and will be seeing savings in the premiums over time. There was a reduction in public safety salary costs because several of the police and firefighters retired, and their positions were filled with those who are rising through the ranks. The cost of those salaries resulted in about \$353,000 of decreased cost. Staff is looking at not funding the Kelly Shift replacement positions in the Fire Department, which equates to \$234,570 per year. The Police Chief recommended declassifying three Captains and one Lieutenant to Sergeants so they can be out on the beat; that resulted in \$58,000 of savings. Staff looked at repurposing unspent capital funds, that was a one time fix that resulted in a \$466,000 reduction. Mr. Larking stated he was proposing in the upcoming budget, starting July 1, that newly hired employees share in the cost of the retirement; by FY 2024, the savings would be as much \$670,000 per year and would continue to increase by as much \$120,000 each year in the future. At some point, the replacements would be paying toward their retirement and there would be significant cost savings to the City.

Mr. Larking reviewed the draft budget highlights which include a \$600,000 increase to Danville Public Schools from \$20,385,570 to \$20,985,570; this is toward the \$2M they are using to pay for teacher salaries, it is not enough to do that; \$2M in bond proceeds will be provided to Danville Public Schools for their capital needs. Also, an additional \$280,000 for the Danville Life Saving Crew which will be paid for with a thirty cent per pack cigarette tax; an average 2% pay for performance included for City employees; funding to conduct an updated pay study, and a decreased use of fund balance for economic development by \$666,907 which is part of the goal to use less fund balance toward economic development. Mr. Shanks requested when the City does the pay study, to get an idea of who will be used as peer cities; in the past he has not agreed with the peer cities. Mr. Larking stated he will make sure Council is aware of the cities they choose.

March 19, 2019

Mr. Larking noted the challenges are that Danville Public Schools' initial draft budget calls for \$25.6M which is a \$5.2M increase over the current year. They always revise it, and it won't be the same at the time of adoption. The DLSC has asked for an additional \$280,000; there is no revenue to pay for that so a cigarette tax is proposed to fund that with any additional revenue going toward DPS. All the criteria has been met for the retirees to get a bonus; if it is done in this fiscal year it would be \$500,000, the next fiscal year it will be \$750,000. One of the criteria that has to be met in order for this to happen is the money must be available. The City does not have the money available unless it raises revenue to do so; Council will have to consider to funding a retiree bonus when there are other needs that aren't being met with the current revenue stream. Mr. Larking then demonstrated using the budget model and turning on or off various initiatives.

Mayor Jones thanked Mr. Tomer and Mr. Shanks for serving on the subcommittee. Mr. Shanks noted he served on the committee for cost savings and questioned Mr. Larking if he was sure there was nothing in the City, as far as staffing levels or services, that aren't actually necessary or not functioning. It was hard for him to comprehend that everything is 100% necessary and functioning and can't be altered in terms of cost savings; Mr. Shanks stated he does not understand why he cannot find 2% or 1.5%. Mr. Larking explained the challenge is there is always pressure by local governments to hold the tax rate where it is. Staff tries to be absolutely efficient as possible because they know they don't have the ability to raise the resources necessary to continue to do things they have always been doing. As the cost of doing business goes up, and the revenue stream stays flat, the City has had to for many years, found ways to reduce the cost of performing services. The City should be deciding what services they want to provide and should do them the right way. There are many things the City does that are not required, the state does not say the City has to do them; there are some things the state says the City has to do and the City does provide those services. There are many different opinions about what the City government should be doing and providing to citizens, and not everyone is going to like the same menu of services that end of up being provided. If Council wants to stop doing certain things, then the City should stop doing them. There hasn't been a point where the Council as a whole by consensus, has chosen to stop doing any particular service. Mr. Shanks noted he felt the City Manager was in the best position to bring the Council opportunities for savings or services; he does not feel like they start the conversation with that in mind. Mr. Larking noted he did present tonight the areas they have worked on to reduce costs.

Mr. Tomer noted it would be helpful at one of the next budget meetings, to do a pie chart and show what is a fixed cost; Council talks about the budget, when it is broken down, there is a really small portion that is discretionary that Council can influence. There is about \$20M-\$25M that can be moved around because the rest is dedicated to schools, funded mandates, public safety, things Council does not want to touch. There is not a lot of room to cut costs. Mr. Tomer noted he was in the group that looked at the revenue portion; part of the ways they looked at it was they wanted a way to make a revenue stream in which economic development is self-sustaining. Looking at where the City is drawing from the fund balance, the majority of that is economic development related. The ten cent tax on personal property over three years was to get it to a point that would produce about \$1.2M in revenue, in which that could help Economic Development be self-sustaining instead of going to the fund balance. If the City doesn't have \$20M in reserves, it will ruin its bond rating and that is not responsible. Mr. Tomer stated he feels Council needs to fund the school system so they can keep 97% or more of their teachers; they accomplished that by getting their teacher pay up to where it needs to be.

Dr. Miller questioned when they would hear about closing a fire station and the response time, and Mr. Larking explained he has been working with the fire department to make sure they had the right scope of services to get Council the information and make a decision. That project is

March 19, 2019

underway but will not be ready for this coming year to implement. Mr. Tomer stated there would not be immediate cost savings; they close one, they have to build a new one and there will be capital outlay out front. It will be a long payback to make that work, it will probably be a five or six years.

Council Members thanked Mr. Shanks and Mr. Tomer for serving on the subcommittee.

**COMMUNICATIONS**

Dr. Miller questioned the status of the bridge near the hospital; Mr. Larking explained they are striping the areas where people can park. They worked with the hospital, funeral home and church to make sure they are aware of what the City was doing. There are now three spaces on the bridge but it leaves a wide area so people can see; it eliminated several spaces. Dr. Miller questioned when the Sports Tourism consultants will be returning and Mr. Larking noted he will get back to Dr. Miller with that. Dr. Miller questioned the status of the fence signs and Mr. Larking noted he would check with Parks & Rec.

Vice Mayor Vogler asked if Council could agree to have the City Manager come back to Council on the idea that was presented about the possibility of City employees having the option to take an hour of their workweek to partner with Danville Public Schools. There were no objections from Council.

MEETING ADJOURNED AT 9:50 P.M.

APPROVED:

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MAYOR

ATTEST:

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CITY CLERK

March 19, 2019

A Special Work Session of the Danville City Council convened on March 19, 2019 at 5:36 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, Fred O. Shanks, III, Adam J. Tomer, Vice Mayor J. Lee Vogler, Jr., and Madison J.R. Whittle (8). Sherman M. Saunders was absent (1). *Mr. Campbell entered the meeting at 5:45 p.m.*

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.

### **CLOSED MEETING**

At 5:37 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 Buckner and carried by the following vote:

VOTE: 7-0-2  
AYE: Buckner, Jones, Miller, Shanks,  
Tomer, Vogler and Whittle (7)  
NAY: None  
ABSENT: Campbell, Saunders (2)

Upon unanimous vote at 6:45 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;

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.

March 19, 2019

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

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

MEETING ADJOURNED AT 6:47 P.M.

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MAYOR

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CITY CLERK

DRAFT

# Council Letter

## City of Danville, Virginia



**CL-2098**

**Work Session Item #: A.**

**Work Session Meeting**

**Meeting Date:** 05/07/2019

**Subject:** Renewal of Community Garden License on North Main Street.

**From:** Kenneth C. Gillie, Jr., Community Development Director

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### **COUNCIL ACTION**

Work Session: 05/07/2019

### **SUMMARY**

On May 2, 2017, Danville City Council approved a Special Use Permit and License for Right Touch Christian Church to operate a Community Garden on North Main Street, Parcel Numbers 02043 and 02044; the license expires on May 10, 2019. Staff recommends that City Council authorize the City Manager to renew the license.

### **BACKGROUND**

On May 2, 2017, as part of the Lots of Potential program, Danville City Council approved a Special Use Permit for urban agriculture on Parcels 02043 and 02044, vacant lots owned by the City, as well as authority for the City Manager to grant a one-year license to Right Touch Christian Church to operate a Community Garden on those Parcels. Over the past year, Right Touch has operated and maintained a community garden on those parcels, which is a more productive use of the land than if they sat vacant.

### **RECOMMENDATION**

It is recommended that City Council adopt the attached Resolution authorizing the City Manager to renew the Community Garden License at Parcel ID #s 02403 and 02404 for another year.

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### **Attachments**

[Resolution](#)

[Renewal Document](#)

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PRESENTED: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

RESOLUTION NO. 2019-\_\_\_\_.\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE EXISTING LICENSE FOR COMMUNITY GARDENING ON NORTH MAIN STREET.

WHEREAS, the City owns certain vacant parcels of real property commonly known as Parcel Numbers 02043 and 02044; and

WHEREAS, the City has an interest in promoting the health of its residents and the productive use of property within its boundaries; and

WHEREAS, the City, through Resolution Numbers 2017-05.04 and 2017-05.05, granted Right Touch Christian Church, a Virginia Corporation, a special use permit for urban agriculture upon Parcel Numbers 02043 and 02044 conditioned upon continuous use of the property for that purpose as well as a one year license to operate a community garden upon the property which was renewed by City Council for an additional year in 2018; and

WHEREAS the current license with Right Touch Christian Church shall expire on May 10, 2019.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia, pursuant to Sections 15.2-1800 and 15.2-1813 of the Code of Virginia 1950, as amended, and in consideration of the public hearing this day held by Council, that the City Manager, Kenneth F. Larking, be, and he is hereby, authorized and directed to renew the Community Garden License with Right Touch Christian Church, for North Main Street, Parcel Numbers 02043 and 02044 for a period of three (3) years; and

BE IT FINALLY RESOLVED that the City Manager, Kenneth F. Larking, be, and he is hereby authorized to execute on behalf of the City any and all documents as may be necessary to effect such license renewal with Right Touch Christian Church.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Approved as to  
Form and Legal Sufficiency:

\_\_\_\_\_  
City Attorney

## COMMUNITY GARDEN LICENSE

**THIS COMMUNITY GARDEN LICENSE** (the “License”), made on this the 10th day of May, 2019 (the “Effective Date,”) by and between the **CITY OF DANVILLE, VIRGINIA, a municipal corporation of the Commonwealth of Virginia** (the “City”), and **RIGHT TOUCH CHRISTIAN CHURCH, a Virginia corporation** (the “Licensee”), hereafter collectively known as “the Parties.”

### :: R E C I T A L S ::

**WHEREAS**, the City owns certain real property located within the City of Danville, vacant lots on N. Main Street commonly known as Parcel ID # 02043 and # 02044 (the “Property”);

**WHEREAS**, the Licensee wishes to operate a community garden upon the Property, for use by the general public;

**WHEREAS**, the City wishes to grant to the Licensee a limited, non-exclusive license to operate a community garden upon the Property, pursuant to the terms and conditions set forth in this License.

**NOW, THEREFORE**, for and in consideration of the mutual promises and undertakings hereinafter set forth, the City hereby grants a limited license to use and occupy the Property, subject to the limitations, terms, and conditions set forth herein:

1. **Description of the licensed property.** The portion of the Property licensed to the Licensee (hereafter the “Premises”) is that portion of the Property identified in the sketch attached to this license as “Schedule A.” All activities permitted by this License shall take place solely within the Premises. The Premises is offered to the Licensee “as-is,” and the City makes no warranty or guarantee of any kind as to the suitability or fitness of the Premises for the production of crops, or for any other purpose.

2. **Use of premises.** The License granted by the City to the Licensee is a limited, non-exclusive, non-transferable license to maintain a community garden upon the Premises. This License shall permit the Licensee to invite members of the general public to enter onto the Premises and plant crops, and shall permit the Licensee to place and maintain any personal property and temporary improvements necessary to facilitate the plantation of crops by the general public, subject to the further requirements of this License.

3. **Rules and Procedures.** In conducting any activity pursuant to this License, the Licensee shall observe and comply with all terms of the “Lots of Potential Community Gardening Program: Rules and Procedures” (the “Rules”), a copy of which attached hereto as “Schedule B” and is incorporated into this License by reference as if fully laid out herein. The City reserves the right to amend or modify the Rules from time to time in its sole discretion, and any amended Rules shall become incorporated into this License, as if fully laid out herein, upon delivery of notice of such amendment or modification to the Licensee. If there is any contradiction or

discrepancy between the terms of this License and the Rules, as they may be amended, the terms of this License shall be given precedence in resolving such contradiction or discrepancy.

4. **Expiration; renewal.** The term of this License shall automatically expire three (3) years from the Effective Date above referenced, unless this License is earlier terminated pursuant to the terms and conditions outlined herein. At any time prior to the expiration of this License, this License may be renewed for a subsequent term upon the mutual written consent of the Parties; provided, however, that the Licensee acknowledges that Licensee has neither a property interest in, nor a reasonable expectation of, any such renewal.

5. **Assignment and sublicense.** The Licensee may not assign or sublicense this License without the advance written consent of the City. Any purported assignment or sublicense not authorized by the City shall be without force or effect, and shall cause the automatic termination of this License without notice to the Licensee. For the purpose of this License, any member of the general public invited to participate in the community gardening activities described herein is considered an invitee and not an assignee or sublicensee.

6. **Termination.** The City may, in its sole discretion, terminate this License by delivering notice to the Licensee, and by posting such notice at the Property, at any time during the term of this License and for any reason whatsoever, including, without limitation:

- a. The Licensee's violation of any provision of this License, or with the Rules, as they may be amended or modified;
- b. The Licensee's abandonment of the Property, as may solely be determined by the City;
- c. Any change in ownership of the Property to a person or entity which is not an agency of the City or controlled by the City;
- d. Any emergency which affects the health, safety, or welfare of the general public; and
- e. Any act by the Licensee which results in the attachment or filing of a lien against the Property.

7. **Procedure for expiration and termination.** If this License expires, or is terminated for any reason, the Licensee shall, not more than thirty (30) days after such termination becomes effective, cause any crops on the Property to be harvested, and cause to be removed any improvements, personal property, refuse, or debris generated by its activities or the activities of any of its invitees. Any property remaining upon the Property thereafter shall be deemed abandoned and shall become property of the City. The City may charge the Licensee for the City's actual costs in demolishing or removing any improvements, personal property, refuse, or debris remaining upon the Property more than thirty (30) days after the termination of this License. The City may collect such costs from the Licensee in any manner permitted by law.

8. **Liability issues.** The Licensee shall hold harmless the City and the Commonwealth of Virginia, and their respective agents, employees, and officers, and shall indemnify and defend the same, from any and all liability related to any claim for any loss, injury, damage, death, or any other harm to the Licensee, its agents, employees, officers, and invitees, or any other third party, or to the property of any person, arising from any occurrence directly or indirectly related to, connected with, or incidental to the activities contemplated by this License, unless such

damage, loss, injury, death, or other harm was intentionally caused by the City, or the Commonwealth of Virginia, or their respective officers, agents, or employees.

9. **Liability for invitees.** In relation to any claim which may be raised by the City arising from any activity contemplated by this License, the Licensee agrees to assume all liability for the acts of any invitee onto the Property.

10. **Insurance.** The Licensee shall acquire a policy of comprehensive general liability insurance with a minimum liability limit of of FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$500,000.000), applicable to all liabilities undertaken by the Licensee pursuant to this License. The Licensee shall maintain such policy during the term of this License and any subsequent renewal of this License, and shall name the City and the Commonwealth of Virginia as additional insured parties under any such policy. The Licensee shall furnish proof of such insurance at the time this License is executed, and at any other time upon the City's request.

11. **Utilities.** The Licensee shall pay all utility charges that may be assessed as a result of any activity which occurs on the Premises as a result of this License, and shall place any such utilities in its own name.

12. **Right of entry.** The Licensee shall allow the City, its agents, employees, and officers, access onto the Property at any time for the purpose of determining the Licensee's compliance with this License and the Rules.

13. **Land disturbing activities.** The Licensee shall not engage in any activity (including, without limitation, the erection, installation, placement, or affixation of any improvement or personal property) which penetrates the land surface of the Property to a depth of greater than six (6) inches.

14. **Improvements.** Any improvements erected, installed, placed, or affixed upon the Property by Licensee shall be temporary in nature. The Licensee shall seek the approval of the City prior to erecting, installing, placing, or affixing such improvement. The Licensee shall obtain all permits, licenses, inspections, and approvals required by the Building Code Official and the Planning Director of the City of Danville, Virginia, and any other official or agency as may be required by law, for the erection, installation, placement, affixation, or demolition and removal of such improvements.

15. **Severability.** If any provision of this License shall be held invalid or unenforceable by a court, the invalidity or unenforceability of such provision shall not affect any other provision of this License, and this License shall be construed as if such invalid or unenforceable clause was not contained herein. Should the enforceability of any provision of this License be called into question, such provision shall be construed as the mutual agreement of the parties to the fullest extent permitted by law.

16. **Third-party beneficiaries.** Nothing in this License is intended, nor shall it be deemed, to confer any right or remedy upon any person not a party to this License.

17. **Non-waiver.** No waiver of any provision of this License by any party shall be deemed a continuing or further waiver of the same provision, or a waiver of any other provision.

18. **Headings.** The descriptive headings of this License are inserted for convenience only and do not constitute a part of this License.

19. **Counterparts.** This License may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same License.

20. **Construction.** The parties agree that this License shall be construed according to the laws of the Commonwealth of Virginia, and that venue for any court proceeding instituted by a party to this License shall be in the General District or Circuit Court of the City of Danville, Virginia, unless otherwise required by law.

21. **Notices.** Any notice required to be sent by this License shall be deemed effective upon depositing such notice for delivery by certified mail at the addresses listed below:

**CITY:** Kenneth C. Gillie, *or*  
Current Director of Community Development  
P.O. Box 3300  
Danville, VA 24543

**LICENSEE:** Rev. Tommy Crews  
Right Touch Christian Church  
513 Worsham Street  
Danville, VA 24540

**IN EXECUTION HEREOF**, witness the following signatures and seals, this the day first above written:

**THE CITY OF DANVILLE, VIRGINIA**

**BY:**

\_\_\_\_\_  
**KEN F. LARKING**  
City Manager

**RIGHT TOUCH CHRISTIAN CHURCH, INC.**

**BY:**

\_\_\_\_\_  
**TOMMY CREWS**  
Pastor, Right Touch Christian Church, Inc.