

July 6, 2021

The Regular July meeting of the Danville City Council was held on July 6, 2021, 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., Bryant Hood, Mayor Alonzo L. Jones, Barry P. Mayo, Vice Mayor Gary P. Miller, Sherman M. Saunders, 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.

### **INVOCATION**

The Invocation was given by L.G. "Larry" Campbell, Jr., followed by the Pledge of Allegiance.

### **COMMUNICATIONS FROM VISITORS**

Mayor Jones recognized Katherine Wall, 127 Fairway Drive, who noted there were some power lines hanging near the road which spark when it rains, and the golf carts from Southern Hills Golf Course need to come to a stop when they approach Elizabeth Street to cross.

Mayor Jones recognized Tommy Bennett, President of the Danville Chapter of the NAACP who noted he would like to recognize Ethan and Julie Brown from Two Witches Brewery who open their events to everyone, and thanked them for bringing everyone together.

### **CONSENT AGENDA**

Council Member Campbell **moved** for adoption of the following Consent Agenda items:

Approval of Minutes from Regular Council Meeting held on June 1, 2021. Draft copies of the Minutes had been distributed prior to the meeting.

Amending the Fiscal Year 2021 Budget Appropriation Ordinance for Additional Federal Aviation Funding.

An Ordinance entitled, Ordinance No. 2021-06.06 Amending the Fiscal Year 2021 Budget Appropriation Ordinance to Provide for Additional Federal Aviation Funding for the Purpose of Completing Design Services to Rehabilitate Taxiway Connections and the South Ramp at the Danville Regional Airport with no Local Matching Share.

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

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

### **NEW BUSINESS**

**PUBLIC HEARING – CONSIDERATION OF GRANTING A SPECIAL USE PERMIT FOR A DUPLEX AT 346 VIRGINIA AVENUE**

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Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit at 346 Virginia Avenue. Notice of the Public Hearing was published in the *Danville Register & Bee* on June 22, 2021 and June 29, 2021. No one present desired to be heard and the Public Hearing was closed.

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

**ORDINANCE NO. 2021-07.01**

GRANTING SPECIAL USE PERMIT APPLICATION PLSUP 2021-124, FILED BY BRENT COCHRAN REQUESTING A SPECIAL USE PERMIT FOR A DUPLEX IN ACCORDANCE WITH ARTICLE 3.E SECTION C.2. OF THE DANVILLE ZONING ORDINANCE AT 346 VIRGINIA AVENUE (PARCEL ID# 24011).

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

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

STATEMENT OF CONFLICT OF INTEREST

I, James B. Buckner, do hereby state that I have a conflict of interest regarding the consideration of an Ordinance granting a Special Use Permit at 346 Virginia Avenue, listed on the agenda as New Business item (A). 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 6<sup>th</sup> day of July, 2021.

*s/James B. Buckner*

**PUBLIC HEARING – CONSIDERATION OF A RESOLUTION DENYING A SPECIAL USE PERMIT AT 259 GUILFORD STREET**

Mayor Jones opened the floor for a Public Hearing regarding Denying a Special Use Permit at 259 Guilford Street. Notice of the Public Hearing was published in the *Danville Register & Bee* on June 22, 2021 and June 29, 2021. Mayor Jones recognized Shirley Hightower, applicant, who explained the first time she missed the Planning Commission meeting, she did not know she had to attend. The second time she was late because she looked at the time wrong, and believes that was why she got denied. No one further desired to be heard and the Public Hearing was closed.

Council Member Hood **moved** for adoption of a Resolution entitled:

**RESOLUTION NO. 2021-07.01**

DENYING SPECIAL USE PERMIT APPLICATION PLSUP 2021-125, FILED BY SHIRLEY AND DONNIS HIGHTOWER, REQUESTING A SPECIAL USE PERMIT FOR A FAMILY DAY CARE HOME IN ACCORDANCE WITH ARTICLE 3.E, SECTION C.24. OF THE DANVILLE ZONING ORDINANCE AT 259 GUILFORD STREET (PARCEL ID# 51026).

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

Council Member Whittle questioned if Council voted this down, could she come back and start the process over again. Council Member Vogler noted he believed the majority of Council was about to vote "No" on the Resolution to deny, and add a Motion to Approve her request so she will not have to go back. In response to Mayor Jones, City Attorney Clarke Whitfield explained there was currently a Resolution on the floor; it would be proper to vote that down and then let a motion be made to approve an Ordinance.

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

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

Council Member Vogler **moved** for adoption of a **Substitute Motion**, an Ordinance entitled:

**ORDINANCE NO. 2021-07.08**

GRANTING SPECIAL USE PERMIT APPLICATION PLSUP 2021-125, FILED BY SHIRLEY AND DONNIS HIGHTOWER, REQUESTING A SPECIAL USE PERMIT FOR A FAMILY DAY CARE HOME IN ACCORDANCE WITH ARTICLE 3.E, SECTION C.24. OF THE DANVILLE ZONING ORDINANCE AT 259 GUILFORD STREET (PARCEL ID# 51026).

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

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

**PUBLIC HEARING – CONSIDERATION OF REZONING AT 1083 FRANKLIN TURNPIKE**

Mayor Jones opened the floor for a Public Hearing regarding Rezoning at 1083 Franklin Turnpike. Notice of the Public Hearing was published in the *Danville Register & Bee* on June 22, 2021 and June 29, 2021. 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. 2021-07.02**

REZONING 1083 FRANKLIN TURNPIKE (PARCEL ID#S 54397 AND 53892), FROM OT-R OLD TOWN RESIDENTIAL TO "CONDITIONAL" TO-C TRANSITIONAL OFFICE COMMERCIAL.

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

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

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**PUBLIC HEARING – CONSIDERATION OF REZONING 816 WEST MAIN STREET**

Mayor Jones opened the floor for a Public Hearing regarding Rezoning at 816 West Main Street. Notice of the Public Hearing was published in the *Danville Register & Bee* on on June 22, 2021 and June 29, 2021. No one present desired to be heard and the Public Hearing was closed.

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

**ORDINANCE NO. 2021-07.03**

REZONING 816 WEST MAIN STREET (PARCEL ID#S 57237 AND 57238) FROM OT-R OLD TOWN RESIDENTIAL TO HR-C HIGHWAY RETAIL COMMERCIAL

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

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

**PUBLIC HEARING – CONSIDERATION OF GRANTING A SPECIAL USE PERMIT AT 145 FRANKLIN TURNPIKE**

Mayor Jones opened the floor for a Public Hearing regarding Rezoning at 145 Franklin Turnpike. Notice of the Public Hearing was published in the *Danville Register & Bee* on on June 22, 2021 and June 29, 2021. Mayor Jones recognized Wanda Joyner, 120 Freeze Road, applicant for the Special Use Permit. Ms. Joyner noted she acquired the property at 145 Franklin Turnpike, and was doing renovations for a daycare center. No one further desired to be heard and the Public Hearing was closed.

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

**ORDINANCE NO. 2021-07.04**

GRANTING SPECIAL USE PERMIT APPLICATION PLSUP 2021-168, FILED BY WANDA JOYNER, ON BEHALF OF MW REAL PROPERTIES LLC, REQUESTING A SPECIAL USE PERMIT FOR A DAY CARE CENTER IN ACCORDANCE WITH ARTICLE 3.M, SECTION C.6. OF THE DANVILLE ZONING ORDINANCE AT 145 FRANKLIN TURNPIKE (PARCEL ID# 52599).

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

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

**PUBLIC HEARING – CONSIDERATION OF REZONING 1100 WEST MAIN STREET**

Mayor Jones opened the floor for a Public Hearing regarding Rezoning at 1100 West Main Street. Notice of the Public Hearing was published in the *Danville Register & Bee* on June 22, 2021 and

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June 29, 2021. Mayor Jones recognized Steven Gould, Byrnes Gould Law, on behalf of Caesars Virginia, who noted he was there to answer any questions related to this request. No one further desired to be heard and the Public Hearing was closed.

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

**ORDINANCE NO. 2021-07.05**

REZONING 1100 WEST MAIN STREET (PARCEL ID# 51530), FROM M-I INDUSTRIAL MANUFACTURING DISTRICT TO C-E CASINO ENTERTAINMENT DISTRICT.

The Motion was **seconded** by Vice Mayor Miller and carried by the following vote:

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

Mayor Jones asked Mr. Gould what the next steps were with Caesars, and Mr. Gould introduced Mark Schlang, the Design and Construction team member for Caesars, overseeing the project. Mr. Schlang explained they were in the process of receiving bids for the first phase, which was demolition of the existing structures on the property; hopefully they will have an award in the next few weeks. They were also doing a hazardous survey of the property, and their team was designing; hopefully in the next few months they will be able to start to share some exciting pictures of where they were heading with the project.

**PUBLIC HEARING – CONSIDERATION OF AMENDING THE ZONING ORDINANCE TO ALLOW CONTRACTOR’S ESTABLISHMENTS IN THE HR-C ZONING DISTRICT**

Mayor Jones opened the floor for a Public Hearing regarding Amendment to the Zoning Code. Notice of the Public Hearing was published in the *Danville Register & Bee* on June 22, 2021 and June 29, 2021. Mayor Jones recognized Steven Gould with Byrnes Gould Law who noted he was here on behalf of the applicant to answer any questions, and stated they appreciated Mr. Plachcinski and his team working with them to find a compromise. No one further desired to be heard and the Public Hearing was closed.

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

**ORDINANCE NO. 2021-07.06**

AMENDING AND REORDAINING CHAPTER 41 ENTITLED “ZONING ORDINANCE” OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, MORE SPECIFICALLY, TO AMEND ARTICLE 3.M., ENTITLED “HR-C, HIGHWAY RETAIL COMMERCIAL”, SECTION B. ENTITLED “PERMITTED USES” TO ADD A SUBSECTION 34 ENTITLED “CONTRACTOR’S OFFICES AND SHOPS” AND SECTION C. ENTITLED “ USES PERMITTED BY SPECIAL USE PERMIT” TO ADD SUBSECTION 29 ENTITLED. “CONTRACTORS OFFICES AND SHOPS WITH STORGE YARDS”.

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

VOTE: 9-0

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AYE: Buckner, Campbell, Hood, Jones, Mayo,  
Miller, Saunders, Vogler and Whittle (9)

NAY: None

**PUBLIC HEARING – CONSIDERATION OF AMENDING THE ZONING ORDINANCE TO ADD A DEFINITION FOR CANNABIS DISPENSING FACILITY**

Mayor Jones opened the floor for a Public Hearing regarding Amendment to the Zoning Code. Notice of the Public Hearing was published in the *Danville Register & Bee* on June 22, 2021 and June 29, 2021. No one present desired to be heard and the Public Hearing was closed.

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

**ORDINANCE NO. 2021-07.07**

AMENDING AND REORDAINING CHAPTER 41, ENTITLED “ZONING ORDINANCE” OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, MORE SPECIFICALLY TO AMEND ARTICLE 15, ENTITLED “DEFINITIONS” SECTION B ENTITLED “DEFINITIONS” TO ADD A DEFINITION FOR CANNABIS DISPENSING FACILITY AND TO AMEND ARTICLE 3.J, ENTITLED “N-C NEIGHBORHOOD COMMERCIAL (NEIGHBORHOOD RETAIL COMMERCIAL DISTRICT”) TO ADD A NEW SUBSECTION 16 ENTITLED “CANNABIS DISPENSING FACILITIES”.

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

Council Member Whittle noted he believed it should read Medical Cannabis Dispensing Facility. Mr. Whitfield explained this definition comes directly out of the State Code and makes it very clear that it was for medical cannabis use only. In order to get access to this facility, a citizen will need to have a prescription from a doctor, and a license; it was strictly for medical purposes only.

Mr. Saunders noted it talks about a dispensing facility, does that mean any medical facility can dispense it, and Mr. Whitfield explained the facility would have to get a license from the Commonwealth. As he understood it, there was probably only going to be one facility per jurisdiction. Mr. Whitfield read the state definition to Council: “cannabis dispensing facility is a facility that (1) has obtained a permit from the Virginia Board of Pharmacy, (2) is owned at least in part by a pharmaceutical processor and (3) dispenses cannabis oil produced by a pharmaceutical process to a registered patient, his registered agent or if the patient is a minor or incapacitated adult, to such patient’s parent or legal guardian.”

Mr. Whittle questioned the difference between NR-C and HR-C, and Zoning Administrator Doug Plachcinski explained typically the neighborhood retail commercial zones were intended to serve a smaller geographic area for their customers, the immediate neighborhoods, not a regional draw or a lot of traffic going through like a highway center would be for a main shopping center. The Neighborhood Commercial districts were local, smaller in scale and staff thinks it fits in well with compassionate care elements of medical cannabis. Mr. Plachcinski explained the state rules to get the licensing from the Board of Pharmacy states the applicant has to show that their site was at least 1,000 feet away from any school or daycare center; staff didn’t incorporate that into the Zoning Ordinance because that distance requirement was already there.

Council Member Vogler noted what Council was voting on this evening has nothing to do with what was or wasn’t coming eighteen months from now. They were discussing medical cannabis,

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one facility that has to be licensed to dispense, and the people going in have to have a prescription from a doctor. They were hearing a lot of different comments about different things; that was not what Council was talking about tonight. He wanted to be clear because that was a completely different discussion and Council will have that when the time comes.

Council Member Saunders noted this became legal on July 1, and some businesses have already opened and selling the product; maybe the City could learn who those business were and how did they comply with all the rules and regulations. Mr. Whitfield explained there was going to be one in Bristol, Roanoke, Lynchburg, Danville, and there may be one in Abington; right now that was where the licenses were going to be. Dr. Miller questioned recreational cannabis and Mr. Whitfield noted that was something else, and it was something the City needed to have a discussion on; this item did not include recreational use of marijuana.

The **Motion** passed with the following vote:

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

**PUBLIC HEARING – CONSIDERATION OF AUTHORIZING AN APPLICATION TO THE VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION**

Mayor Jones opened the floor for a Public Hearing regarding Authorizing an Application to the VA Department of Rail. Notice of the Public Hearing was published in the *Danville Register & Bee* on June 16, 2021 and June 20, 2021. No one present desired to be heard and the Public Hearing was closed.

Council Member Campbell **moved** for adoption of a Resolution entitled:

**RESOLUTION NO. 2021-07.02**

**AUTHORIZING AN APPLICATION BY THE CITY TO THE VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION FOR GRANTS FOR OPERATING AND CAPITAL COSTS FOR PUBLIC TRANSPORTATION FOR FISCAL YEAR 2022.**

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

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

**BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FISCAL YEAR 2022 BUDGET APPROPRIATION ORDINANCE FOR VIRGINIA DEPARTMENT OF AVIATION AIRPORT MAINTENANCE FUNDS, AND LOCAL SHARE FOR A TOTAL APPROPRIATION OF \$120,000**

Upon **Motion** by Council Member Buckner and **second** by Council Member Mayo, an Ordinance entitled:

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## ORDINANCE NO. 2021-07.09

AMENDING THE FISCAL YEAR 2022 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR STATE DEPARTMENT OF AVIATION MAINTENANCE GRANT FUNDS RELATED TO THE MAINTENANCE OF CERTAIN AIRPORT PROPERTIES IN THE AMOUNT OF \$100,000 AND FOR THE LOCAL SHARE IN THE AMOUNT OF \$20,000 FOR A TOTAL APPROPRIATION OF \$120,000 AND APPROPRIATING THE SAME.

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

Mayor Jones questioned what was made legal on July 1, and Mr. Whitfield stated the possession of up to one ounce of marijuana by adults twenty-one and over, adults twenty-one and over can cultivate up to four plants, and adults in private can share up to one ounce without payment. Citizens cannot smoke it in their car, but can smoke it in their homes. Mr. Whitfield stated what was not legal was public consumption, consumption or possession by anyone under the age of twenty-one, consumption in a motor vehicle, persons cannot have an open container of marijuana in a public vehicle, and they cannot sell or purchase cannabis outside of the medical programs. If their job prohibits the use of marijuana, the job will still prohibit the use of marijuana, and the Virginia Department of Housing was not going to allow the cultivation or use within public housing. There will be a lot of restrictions because the property owner gets to control anything that goes on in their property.

### **COMMUNICATIONS**

City Manager Ken Larking thanked the Parks & Recreation Department for all the events that occurred on Independence Day, noting he participated in the 8:00 a.m. Patriot Challenge. Parks & Rec staff put together many events for the community, working from before 8:00 a.m. in the morning until past dark with the fireworks show. Mr. Larking noted there were staff from the Police and Fire Department and the Lifesaving Crew working as well.

City Attorney Clarke Whitfield noted Alan Spencer who was an Assistant City Attorney in their office for twelve years, as of July 1<sup>st</sup> was promoted to Deputy City Attorney. Ryan Dodson had been a full time temporary employee, was now a full time permanent Assistant City Attorney.

There were no communications from the Deputy City Manager or City Clerk.

Council Member Hood noted the City had a lot of phenomenal events this weekend, and there was a lot of unity throughout the City. He had the opportunity of visiting different playgrounds in the City, seeing what was out there, and he was able to meet with a group of tennis players that play tennis every Monday, Thursday and Saturday, twelve months out of the year. They play at GW where they teach the youth as well. Hats off to Parks & Rec for their programs and engaging the City.

Vice Mayor Miller noted at the last Utility Commission meeting, they discussed the new West Fork Substation, a substation needed for the western part of the City and the County. Dr. Miller stated there was a list in the paper recently regarding the rebates that were approved, to promote energy efficiency in the City, and the battery storage facility was still on track for next spring. There were a lot of good events over the weekend, one in Cardinal Village where Constance Covington was honored, and a new education center was opened. Dr. Miller noted six people recently died in Eden in an accident with a low head dam; he would like to have staff find out the cost to remove the dam, and bring that information back to Council.



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Council Member Saunders noted a special thanks to staff, everyone involved in serving and protecting the City. Mr. Saunders noted the design plans for Caesars, whatever that plan ends of up being, the City would need to look at traffic and infrastructure; will the City be looking at infrastructure, will it be in conjunction with Caesar's plan, before or after.

Mr. Larking explained some of the work has begun, so it will be before the plan. The City has done one traffic study already, there may be another one in conjunction with the Schoolfield Master Plan. That Master Plan was being conducted through the IDA, will examine the Schoolfield area including the neighborhood and the corridor leading down business 29 from North Carolina to the site, and from the site to downtown. There will be a corridor study for both of those areas which will examine a number of things including the businesses, what uses should be there, traffic, what the City can expect and how they can best respond to what they know will happen in the next couple years.

Council Member Vogler noted he hoped citizens had a wonderful Fourth of July weekend; he and his family had a great time watching the fireworks by the River. Mr. Vogler stated he was opposed to removing the dam and has been every time it has come up in the last several years, for several reasons. The accident that recently happened did not happen in Danville, the City has signs up at the dam to tell people to stay off it and there was only so much that could be done to protect people from themselves. Mr. Vogler noted an informal poll on-line shows 128 people opposed to the dam being removed and four people in favor, two undecided, and believes that was reflective of how the majority of the population feels.

Council Member Whittle stated Danville has jobs, entry level jobs, higher paying jobs, and encouraged people to come to Danville.

Council Member Buckner noted the City's Fourth of July celebration was phenomenal, with an excellent job done by the public safety officers and other staff. Mr. Buckner asked that the City have a FAQ tab put on the City's website about the cannabis issue for the citizens.

Mayor Jones noted the City Attorney does a great job, thanked him for what he does, and commended him for promoting within his department, and Mr. Gould was doing a great job keeping the City updated on Caesars. Mayor Jones stated there was a lot going on in the community and thanked Council for what they do, and Mr. Bennett for what he does for the community.

ADJOURNED: 8:11 P.M.

APPROVED:

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MAYOR

ATTEST:

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CITY CLERK