

March 1, 2022

The Regular March meeting of the Danville City Council was held on March 1, 2022, 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.

Mayor Jones noted the City of Danville lights at the substation and fountain downtown were lighted in blue and yellow in support of Ukraine.

INVOCATION

The Invocation was given by Vice Mayor Gary P. Miller, followed by the Pledge of Allegiance.

ANNOUNCEMENTS AND SPECIAL RECOGNITIONS

Presentation of Check to Danville City Council

By: The Lions Foundation

Sheriff Michael Mondul introduced Mr. Gary Terry, the new Executive Director of the Boys & Girls Club of Danville, and noted on behalf of the Lions Clubs, the Danville Lions' Foundation and the E. Stewart James Grant Charitable Trust, they were pleased and honored to present to Danville Parks & Recreation a check for \$100,000 for the new Riverfront Park. Director of Parks and Recreation, Bill Sgrinia noted they have had great support from the community, and this was the second check from the Lions; the park was moving along, and they were finishing up the engineering now. Council Members thanked Sheriff Mondul and the Lions Club for the donation.

Presentation on the Passport Reading Program

Presented by Danville Public Schools

Superintendent Dr. Angela Hairston noted the importance of reading for children cannot be underestimated. Reading for pleasure can benefit a child's education, social and cognitive development, wellbeing and mental health. Dr. Hairston introduced team members who would be reviewing a plan that celebrated reading throughout the community. Dr. Hairston introduced Ms. Takiwi Babalola, Chief Academic Officer, Laura Webb, ELE Curriculum Coordinator, Amanda McKinney, Literacy Specialist, Cori Sowers, Instructional Technology Resource Teacher, and Ms. Mary Jennings, Director of Curriculum and Instruction.

Mrs. Webb reviewed the PowerPoint, *Passport to a Great Adventure*, and explained literacy plays an important role for all students and they needed an equitable way to practice and enhance literacy skills. They came up with a plan that provides equity at different grade levels; all students were required to read every day, with different grades reading for different amounts of time. Ms. Sowers explained the students were given Passport logs, and each night the students would read the recommended amount of minutes based on their grade level and document that in their log. At the end of each month, the logs get signed by the parents, handed in to their classroom teachers, and district specialists collect the logs to be entered into prize drawings. Virtual learners also have access to this program. Mrs. Webb noted there were also school wide goals; as they total up the minutes every month, the schools charted that and at the end of the program, the school with the students that have read the most minutes gets a party. Ms. Sowers explained as

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an extra bonus to the students, they can go online on each schools' website and click on Read Aloud Here. It was a calendar that everyday has at least one book that was recorded, and read by faculty, staff or students in the district. Council Member Vogler noted this was a great program; his son was in second grade at Forest Hills and was very enthusiastic about it. It was a great way to get children excited about reading. Council Members thanked them for coming to Council.

COMMUNICATIONS FROM VISITORS

No one desired to be heard.

MEETING MINUTES

Upon **Motion** by Council Member Buckner and **second** by Council Member Mayo, Minutes from the Regular Council Meeting held on February 1, 2022, were approved as presented. Draft copies of the minutes had been distributed prior to the meeting.

OLD BUSINESS

Amending Certain Sections of Chapter 37 of the Danville City Code by Creating a New Article XIII "Imposition of Additional Sales and Local Use Tax" and New Section 37-185 Entitled "Imposition of Additional Sales Tax; Use of Revenues for Construction or Renovation of Schools"

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

ORDINANCE NO. 2022-02.06

AN ORDINANCE AMENDING AND REORDAINING CERTAIN SECTIONS OF CHAPTER 37, ENTITLED "TAXATION," OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, BY CREATING A NEW ARTICLE XIII, ENTITLED "IMPOSITION OF ADDITIONAL SALES AND LOCAL USE TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS" AND ADDING A NEW SECTION §37-185, ENTITLED "IMPOSITION OF ADDITIONAL SALES TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS".

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

Amending Certain Sections of Chapter 37 of the Danville City Code by Amending Article XIII by Adding a New §37-186 Entitled "Imposition of Additional Local Use Tax; Use of Revenues for Construction or Renovation of Schools"

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

ORDINANCE NO. 2022-02.07

AN ORDINANCE AMENDING AND REORDAINING CERTAIN SECTIONS OF CHAPTER 37, ENTITLED "TAXATION," OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, BY

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AMENDING ARTICLE XIII, ENTITLED "IMPOSITION OF ADDITIONAL SALES AND LOCAL USE TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS" BY ADDING A NEW § 37-186, ENTITLED "IMPOSITION OF ADDITIONAL LOCAL USE TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS".

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

APPOINTMENTS

Council Member Miller **moved** for adoption of the following Appointments:

Resolution No. 2022-03.01 – Appointing Philip Hall to the Industrial Development Authority.

Resolution No. 2022-03.02 – Appointing Robert W. Woodall, III to the Industrial Development Authority.

Resolution No. 2022-03.03 – Appointing Roshanda Chapman to the Social Services Advisory Board.

Resolution No. 2022-03.04 – Appointing Venee Mayo to the Social Services Advisory Board.

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

NEW BUSINESS

PUBLIC HEARING – CONSIDERATION OF A SPECIAL USE PERMIT WITH CONDITIONS FOR A PLANNED UNIT DEVELOPMENT ON SEELAND ROAD

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit on Seeland Road. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, 2022, and February 22, 2022. 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. 2022-03.01

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PZ22- 15, FILED BY LANDMARK DEVELOPMENT ON BEHALF OF THE DANVILLE REDEVELOPMENT AND HOUSING AUTHORITY, REQUESTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ACCORDING TO ARTICLE 17 OF THE DANVILLE ZONING ORDINANCE ON

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SEELAND ROAD (PARCEL ID#S 76121, 76122, 76123, 76124, 76125, 76140, 76141, 76142, 76143, 76144, 76145, 76146, 76147, 76148, 76149, 76150, 76151, 76152, 76153, 76154, 76155, 76156, 76157, 76158, 76159, 76160, 76161, 76162, 76163, 76164, 76165, 76166, 76167, AND 76168).

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

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

PUBLIC HEARING – CONSIDERATION OF REZONING NOS. 11-17 WESTOVER DRIVE, PARCEL #72498

Mayor Jones opened the floor for a Public Hearing regarding Rezoning Nos. 11-17 Westover Drive. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, and February 22, 2022. 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. 2022-03.02

AN ORDINANCE REZONING NOS 11-17 WESTOVER DRIVE (PARCEL ID # 72498) FROM N-C, NEIGHBORHOOD COMMERCIAL DISTRICT TO M-R, MULTIFAMILY RESIDENTIAL DISTRICT.

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 A SPECIAL USE PERMIT TO WAIVE MINIMUM ZONING DISTRICT SIZE FOR PARCEL ID #72498 AT NOS. 11-17 WESTOVER DRIVE

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit at Nos. 11-17 Westover Drive. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, 2022, and February 22, 2022. 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. 2022-03.03

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PZ22- 18, FILED BY TUNE AND TOLER, INC. REQUESTING A SPECIAL USE PERMIT TO WAIVE MINIMUM DISTRICT SIZE ACCORDING TO ARTICLE 3.G. SECTION C.22. OF THE DANVILLE ZONING ORDINANCE AT NOS 11-17 WESTOVER DRIVE (PARCEL ID # 72498)

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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

PUBLIC HEARING – CONSIDERATION OF A SPECIAL USE PERMIT FOR A COMMERCIAL RECREATION FACILITY WITH CONDITIONS AT 4764 RIVERSIDE DRIVE

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit at 4764 Riverside Drive. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, 2022, and February 22, 2022.

Mayor Jones recognized Ryan Gatewood from LED Professionals, 110 Exchange Street, representing the applicants, Brad Skidmore and Bill Powell. The applicants were planning on renovating an existing car dealership at 4764 Riverside Drive into a skill game arcade, with approximately 50-60 machines; it was currently zoned as HR-C. They have been working with the Planning Commission to get this project through the Special Use Permit process.

Mayor Jones recognized Bill Powell, one of the applicants, who explained the facility will have hired security, it will be a very safe place for family members to gather, but no one under the age of 18. He was there to answer any questions Council may have. These games were currently running in the State of Virginia, and they understood in order to put a facility in Danville they needed a special use permit.

Vice Mayor Miller questioned the current legal status of these machines, he knew they were running right now, but weren't they under an injunction, and Mr. Powell noted they were under injunction until May 18th. Dr. Miller noted he was not sure he saw the point of approving this until they were adjudicated legal or not legal. Mayor Jones questioned if on May 18th the State says no, what was Mr. Powell's plan and Mr. Powell stated they were out of business. Mayor Jones questioned if Mr. Powell would like to table this and bring it back after they make that decision or did he want to move forward. Mr. Powell noted they would like to move forward because they feel the State was going to do something in order to regulate gaming in the state of Virginia.

In response to Mr. Whittle, Mr. Whitfield explained the injunction prevented law enforcement from enforcing the law; the games were not legal, but they were able to run without the threat of law enforcement coming in. If the court rules that they were illegal and removed that injunction, that shuts it down. Also, they don't know what the legislature will do; there were some bills in the legislature talking about making it illegal and trying to get over the issue that has been raised by Senator Stanley's case with his client Mr. Stadler. Mr. Whittle noted if there were some that were grandfathered, the City didn't have much room to do anything with them either way in the past. Mr. Whitfield explained Council never issued any special use permits; the Board of Zoning appeals may have allowed one or two, but those were the only ones allowed to operate legally in the City. Mr. Whittle questioned if they had the special use permit and then if it passes, were the ones already in place grandfathered. Mr. Whitfield stated what he thinks it was saying was that those few that have the right to operate under the Board of Zoning appeals rulings as well as any special use permits that were granted by Council, and those people were running a skilled games business, the court will determine whether they continue or will be shut down. If the court rules that the state's skilled game ban was constitutional, then they will be shut down and there will not be any grandfathering at that point.

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Council Member Vogler noted he was looking at this from a fairness standpoint; currently, these machines were in almost every five and dime in the City, whether they were supposed to be or not. Because of the injunction, they have essentially been decriminalized temporarily; they were not legal, but law enforcement can't do anything about them. With the May decision, either these facilities would be allowed to continue to operate, or they decide they will not allow them in which case they will all be shut down. Mr. Powell's investment will be lost but he seems to understand that and was willing to do that. Was it fair to tell one person they couldn't have it, but they were already in other places. Council Member Buckner questioned if Council could grant a special use permit during the injunction and Mr. Whitfield explained right now what has been ruled on by the Court in Greenville was that law enforcement can't go in and enforce it, it says nothing about zoning, so Council was free to do what they wanted. But anybody who currently was operating skilled games that has not gotten a special use from this Council was doing so illegally and violated the zoning ordinance. Mayor Jones asked what the consequences were of those operating illegally and Mr. Whitfield noted there were civil penalties that can become criminal penalties.

No one further desired to be heard and the public hearing was closed.

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

ORDINANCE NO. 2022-03.04

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PZ22- 16, FILED BY BRAD SKIDMORE AND BILL POWELL ON BEHALF OF RCCM PROPERTIES, LLC REQUESTING A SPECIAL USE PERMIT FOR A COMMERCIAL RECREATION FACILITY ACCORDING TO ARTICLE 3.M. SECTION C.4. OF THE DANVILLE ZONING ORDINANCE AT 4764 RIVERSIDE DRIVE (PARCEL ID#78406).

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

Vice Mayor Miller questioned if the City had turned down several zoning items for this issue and Mr. Whitfield explained it has been almost two years and remembers only one or two that came from the Planning Commission, and Council didn't approve any of them. The three that were approved, were approved by the Board of Zoning Appeals. Mr. Larking noted after that occurred, then they were made illegal throughout the state, and Mr. Whitfield stated they were then made legal for a year and then they became illegal after July 1, 2021. Dr. Miller noted he was not sure he saw the point of approving this until they get the final word on the legality.

Council Member Miller **moved** for a Substitute Motion to table this item until after such time as a decision was made as to the legality of these skilled machines.

In response to Mayor Jones, Mr. Whitfield noted it sounded like it was a Motion to Postpone for an indefinite term or wait until the Greenville County Circuit Court case; it does take precedence over any other motion.

The Substitute Motion was seconded by Council Member Campbell.

Council Member Saunders questioned the City Attorney, that the Substitute Motion can be made while the Motion was already on the floor and Mr. Whitfield noted yes, the Motion to Postpone can be made while that was on the floor, it takes precedent and has to be disposed of prior to the original motion.

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Council Member Saunders Called for the Question.

Vice Mayor Miller questioned the City Attorney, if this item was tabled, and it was legalized two months from now, do they have to go back through the Planning Commission and Mr. Whitfield noted they did not.

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

VOTE: 4-5

AYE: Jones, Mayo, Miller, Saunders (4)

NAY: Buckner, Campbell, Hood, Vogler and Whittle (5)

Mayor Jones noted Council now goes back to the original Motion which was to approve this item.

Council Member Buckner noted there were some recommendations from the staff and asked Division Director of Planning Doug Plachcinski to explain. Mr. Plachcinski stated the Planning Commission did, in consultation with the applicant, alter the staff recommendations on a few points. In the council letter, Mr. Plachcinski included two other items he wanted to make sure came up. One was that the City put some type of time limit should City Council approve it, so it can be revisited once the Greenville County case was resolved, and two, if somebody was operating a skilled game in a permitted special use commercial recreation establishment, and the City finds out that they have machines outside that permitted use establishment, that the City was able to revoke the special use permit they obtained. The Planning Commission also deviated from the consistent staff recommendations on the hours of the operation and the kinds of games, which in the past when Planning had made a recommendation, were single player games. Some games were big and can involve up to eight players; the Planning Commission agreed with the applicant to modify the recommendation to allow multi-player games. Mr. Plachcinski noted he believed there was a change in occupancy that the Planning Commission also recommended.

Director of Community Development Ken Gillie noted he had historical knowledge if Council had questions on what was done in the past; Council denied Pilot several years ago because they couldn't keep control. In the past, they had a limited number of games, the eight player games which people called fish tables, they had fights in facilities because of those. A facility on Piney Forest Road had an issue that the City cited, and eventually had them shut down; that was the reason years ago they had that change. Mayor Jones questioned what was on the table for Council tonight, did that include the staff recommendations in the item. Mr. Plachcinski stated he believed the motion that was made did not include an indication of any conditions recommended, and noted his recommendation would be to remand it back to the Planning Commission to consider those changes.

Council Member Buckner questioned if it was possible to table this tonight, let it go back to the Planning Commission for reconsideration, and brought back to Council. Mr. Whitfield noted this would be a motion to remand it back to the Planning Commission for further study and recommendation.

Council Member Buckner made a **Motion to Remand** this item back to the Planning Commission for further study and recommendations and come back to City Council. The Motion was **seconded** by Council Member Campbell.

Mr. Vogler questioned Mr. Plachcinski, the things he talked about that Council would send it back to the Planning Commission for, were those not presented to the Planning Commission the first

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time. Mr. Plachcinski noted those things don't always come up, specifically, the item about having machines in circulation that were part of unapproved commercial recreation. When staff reviewed the draft minutes from the Planning Commission, and he was not suggesting that the applicant had machines in Danville in unapproved locations, but it seemed to indicate that they may and he would like them to clarify that to the Planning Commission and if possible, include that. Mr. Vogler noted if it seems like the majority of Council thinks it would be beneficial to get this item cleaned up a little, he understands that, but again, he hopes Council thinks about what was already being allowed, what was going to be allowed and make sure it was applied fairly to everyone.

Mr. Saunders called for a point of order, there was a motion on the floor and properly seconded, another motion has just been made and the first motion has not been handled, was this an issue. Mr. Whitfield explained that motion can be disposed of prior to the first motion; the motion that was disposed of was the postponement. There was a new motion asking that the case be remanded back to the Planning Commission and that motion was in order.

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

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

Mr. Whitfield explained that the case has now been remanded back and the original motion dies.

**BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FISCAL YEAR 2022
BUDGET APPROPRIATION ORDINANCE FOR STATE AVIATION CAPITAL GRANT
FUNDING**

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

ORDINANCE NO. 2022-03.05

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR ADDITIONAL STATE AVIATION FUNDING FOR THE PURPOSE OF OVERALL AIRPORT IMPROVEMENTS IN THE AMOUNT OF \$114,767 PLUS THE LOCAL SHARE IN THE AMOUNT OF \$96,888 TO BE PROVIDED THROUGH THE FISCAL YEAR 2022 ISSUANCE OF BONDS FOR CAPITAL AND SPECIAL PROJECTS AND APPROPRIATING SAME

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, City Attorney or City Clerk.

Vice Mayor Miller noted at the Utilities Commission meeting the other day, in reference to what was going on in Russia and the Ukraine, a dekatherm was 1M btus, they sell for about \$4 per btu in America, in Europe it was \$30, and it will go up. Their supply was being cut off, a good part of the difference will come from the US, the US prices will end up going up and the US will have to

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produce more natural gas and rates will go up for power. Appalachian Power will be raising their transmission charges 15-17%, every year they raise it. The power was produced on the Ohio River but it has to get to Danville and there was a middle man, Appalachian Power, and they have no regulations as to how much they can raise the transmission charge. Citizens can talk to their legislators about that, the power bill will go up but Danville Utilities will get the blame. The City was doing everything it could to keep rates low including solar power, but were competing against larger entities who were raising their rates.

Council Member Saunders noted to the Mayor that if it appeared that he was arguing with him, it was not true, it was a simple debate because he was not clear on the issue. Their Council was blessed to have people that worked well together, and tried to work to help the citizens.

Council Member Vogler noted his agreement with Mr. Saunders; citizens got to see a little bit more of the process of what Council sometimes does in a work session, a constructive process working through issues. Mr. Vogler asked citizens to continue to pray for the people of the Ukraine and the incredible bravery and resilience they were showing right now. Danville was in the midst of an era of prosperity, looking around at all the great things that were happening. There was a great article in Virginia Business that Corrie Bobe was quoted in, talking about the number of projects happening in the City and the region, and this year was going to be even better.

Council Member Whittle noted his prayers went out to the Ukrainian People as well. Mr. Whittle noted there have been nine crashes on Mountain View in the past two years and asked staff to look at that.

Council Member Buckner asked citizens to keep the people of Ukraine in their thoughts and prayers and noted his agreement with Mr. Saunders, they do have an amazing Council. They all work very well together, and he was honored to be a part of it.

Mayor Jones thanked Council for all that has been said, and thanked Council Members Saunders and Mayo; this past Saturday, he was presented an award, they got his friends and family to attend, he knew nothing about it and was very grateful to them. To Mr. Bennett and everyone who was involved in that, he thanked them. Mayor Jones noted their support goes out to the school system to all staff for what they do, and all their prayers go out to the people of the Ukraine.

ADJOURNED: 8:16 P.M.

APPROVED:

s/Alonzo L. Jones
MAYOR

ATTEST:

s/Susan M. DeMasi, CMC
CITY CLERK