

COUNCIL CHAMBER – February 16, 2010

Council met in regular session on this date with the following members present: Dr. Brown, Ms. Edwards, Mr. Huja, Mr. Norris (arrived late); Ms. Szakos.

Ms. Edwards said Mr. Norris will be arriving late.

AWARDS/RECOGNITIONS: 40TH ANNIVERSARY OF VIRGINIA SCENIC RIVER PROGRAM

Ms. Edwards presented the Virginia Scenic River Proclamation.

ANNOUNCEMENTS

Mr. Huja announced the City will provide free storm related debris pickup from March 1 through 5 on the days of routine trash pickup.

Dr. Brown announced the deadlines for applications for the real estate and rent relief programs, said the 2010 census is getting ready to start, and said he would like to talk about the City's street acceptance policy during other business.

Ms. Szakos said the annual Charlottesville High School symphony and orchestra will perform tomorrow, said Venable students will appear in a documentary to be shown at the Paramount, and pre-school registration is due on March 2.

PUBLIC

Mr. Joe Szakos, Executive Director of the Virginia Organizing Project, expressed concern about the impact of state and federal budget cuts, especially on low income residents, those with special needs, and the unemployed. He encouraged Council to ask state legislators to use the many options they have to raise revenues, especially increasing taxes on the highest earners.

Ms. Colette Hall, 101 Robertson Lane, said she does not think it is wise to give the conservation easement to a private organization; said she looks forward to working on the goal of a neighborhood advocate, but would prefer that it not be under Neighborhood Development Services; and supported applying the proposed noise ordinance to all residential areas.

Mr. Peter Castiglione, 1516 Chesapeake Street, owner of Maya Restaurant on West Main Street, asked why the downtown mall is exempt from the proposed decibel level changes. He opposed the restriction and said it would give them an unfair advantage. He asked Council to consider the inherent inequality.

Mr. Adam Frazer, 707 Graves Street, owner of The Local, said Belmont is a diverse neighborhood and the battle appears to be between Bel Rio and four or five

residents. He said the proposed noise ordinance will be a death knell to Bel Rio. He asked that Council make a decision on this important issue.

Mr. Jim Baldi, 900 Elliott Avenue, owner of Bel Rio, supported the request that Council make a decision. He said it is not true to say that this change would have no budgetary impact as it would reduce sales taxes. He said it would be unworkable for outdoor patios. He said it would be useful to have the sample decibel levels. He said where the noise would be measured is unclear.

Mr. Bennie Dodd said he has been a full-time musician since 1976, and if the proposed ordinance is adopted it will affect all of Charlottesville and will close down the music scene.

Mr. Jamie Dyer said he is a musician and there is a unique music scene in Charlottesville.

A local musician said the proposed 55 decibel restriction is too low.

Mr. Chris Munson said he has been a nightclub owner and booking agent and the proposed 55 decibel level is unreasonable and will cause businesses to close.

Mr. Jerry Mallory, Highland Avenue, said that basic conversation is 61-79 decibels and 55 is unreasonably low. He said there is technology available to help eliminate noise.

Mr. Jeyon Talsini, 1013 Locust Avenue, owner of a booking agency, opposed the 55 decibel restriction citywide as it will severely impact the music scene.

Mr. Bob Fenwick, 901 E. Jefferson Street, said water conservation kits available at City Hall could impact the water demand. He said dam proponents need to make their case.

Mr. Kevin Lynch, 609 Locust Avenue, said the Mayor made a good case for revisiting the water plan at the recent Chamber of Commerce meeting. He provided charts showing supply and demand curves from Rivanna Water and Sewer Authority and with the actual demand added. He also presented charts showing if we dredge and if we build a 13 foot dam. He said we should just look at repairing the dam.

COUNCIL RESPONSES TO MATTERS BY THE PUBLIC

Ms. Szakos said there are misconceptions about the current noise ordinance, noting that there is a 55 level restriction at night in residential neighborhoods. She said the discussion is about whether to apply that to Belmont. She said the City's water kits are great.

Ms. Edwards said she hopes we can bring a resolution to the noise issue. She thanked Mr. Fenwick for bringing the water conservation kits.

Ms. Edwards announced that the 4th Street property lease issues will be held until the end of the meeting so Mr. Norris can be present for the discussion.

CONSENT AGENDA

Ms. Edwards said the resolution authorizing purchase of the 4th Street property will be deferred to the next meeting.

On motion by Dr. Brown, seconded by Ms. Szakos, the following consent agenda items were approved by the following vote. Ayes: Dr. Brown, Ms. Edwards, Mr. Huja, Ms. Szakos. Noes: None. Absent for the vote: Mr. Norris.

a. Minutes of January 19

- b. **APPROPRIATION**: \$11,500 – Piedmont Housing Alliance Loan Payoff
(2nd reading)
- c. **APPROPRIATION**: \$38,063 – Youth Internship Program Grant (2nd reading)
- d. **APPROPRIATION**: \$60,000 – Cherry Hill Subdivision Sidewalks Contribution
(carried over)
- e. **APPROPRIATION**: \$1,380 – Public Access TV Registration Fees (carried over)
- f. **RESOLUTION**: Accept Extension of Raymond Road into City System
- g. **RESOLUTION**: Appointment of Acting City Manager
- h. **ORDINANCE**: “AN ORDINANCE TO AMEND AND REORDAIN
SECTION 34-796 (Use Matrix) OF ARTICLE VI (MIXED-USE CORRIDOR
DISTRICTS) OF CHAPTER 34 (ZONING) TO ADD ANIMAL BOARDING/
GROOMING FACILITIES, KENNELS AND VETERINARY CLINICS WITH A
SPECIAL USE PERMIT IN THE HIGHWAY (HW) CORRIDOR DISTRICT”
(2nd reading)
- i. **ORDINANCE**: “AN ORDINANCE AMENDING SECTION 19-139 OF
ARTICLE V OF CHAPTER 19 OF THE CHARLOTTESVILLE CITY CODE, 1990,
AS AMENDED, RELATED TO FAMILY HEALTH CARE COVERAGE FOR
CITY RETIREES” (carried over)
- j. **ORDINANCE**: “AN ORDINANCE AUTHORIZING THE
CONVEYANCE OF A CONSERVATION EASEMENTS ACROSS CITY-OWNED
LANDS NEAR BRANDYWINE DRIVE AND THROUGH GREENBRIER PARK

TO THE NATURE CONSERVANCY” (2nd reading)

REPORT: BELMONT ISSUES

Mr. Jim Tolbert, Director of Neighborhood Development Services, said staff has met with the Belmont neighborhood several times and three major issues have been identified: noise; zoning changes to make it more of a neighborhood commercial zone, including the definition of restaurants (the Planning Commission will hold a public hearing on these proposed changes in March); and physical changes regarding traffic.

Ms. Szakos asked if plantings will be addressed in the physical changes, and Mr. Tolbert said he has a note to do that along with drainage issues.

Mr. Huja asked if there were discussions about undergrounding utilities, and Mr. Tolbert said it is cost prohibitive and the neighborhood did not ask for it.

Ms. Edwards said she went on a ride along with the police in Belmont recently and was struck by the level of activity between midnight and 3:00 a.m. She said we need to figure out a balance in that neighborhood.

REPORT: NEIGHBORHOOD ADVOCACY

Ms. Szakos clarified that this is a report, not an action item.

Mr. Tolbert said this is the beginning of a conversation we want to have. He said other communities were researched after the issue was raised by a couple of Councilors. He said the goal is to strength the voice and participation of neighborhoods. He said the position could be under the City Manager’s office, working with the Assistant City Manager, put in Neighborhood Development Services, or the position of Clerk could be recreated to provide the service.

Mr. Maurice Jones, Assistant City Manager, said more neighborhood-based Council meetings are also being looked at. He said we need to look at unique ways to bring people to the table.

Mr. Tolbert said the cost with benefits for such a position would be between \$50,000 and \$75,000. He said a position in NDS will not be filled until a decision is made.

Mr. Jones said the next step is to get feedback from neighborhood associations.

Dr. Brown said issues related to density and noise will increase in neighborhoods. He expressed concern about the budget and whether an existing position could be used. He suggested that if we decide to fill the position that the new City Manager help shape it.

Ms. Szakos said she and Mr. Norris met with a lot of people about this issue.

Ms. Edwards said we need to look at balancing advocacy and accountability.

Ms. Szakos said she would love to see us go forward and not wait for the new City Manager to start. She suggested that the issue come back to Council in a few months and that public forums be held.

Ms. Edwards suggested developing a tracking sheet for calls.

REPORT: RFP FOR RAISING EXISTING LOWER RAGGED MOUNTAIN DAM

Ms. Lauren Hildebrand, Director of Utilities, gave a brief overview of the proposed RFP regarding the feasibility of raising the dam by 13 feet. She also suggested additions to the RFP provided to Council.

Dr. Brown suggested that we might not want to proceed with the RFP until we get the dredging report.

Ms. Szakos said she is inclined to move forward as we will have some information from the interim dredging study.

Dr. Brown said he would agree to that as long as we get preliminary information before making a final decision on awarding the RFP.

On motion by Mr. Huja, seconded by Dr. Brown, the RFP was approved, with language recommended by Ms. Hildebrand, by the following vote. Ayes: Dr. Brown, Ms. Edwards, Mr. Huja, Ms. Szakos. Noes: None. Absent for the vote.

ORDINANCE: NOISE ORDINANCE AMENDMENTS

Mr. Tolbert said the proposed ordinance grew out of discussions with the Belmont neighborhood. He said the alternate ordinance would apply citywide. He suggested adding “amplified sound” as it is not intended to apply to people talking at a patio, and inserting that the noise would be measured at the residential boundary. He recommended that Council consider only applying the ordinance to neighborhood commercial zones, which includes Belmont and part of Fontaine Avenue, at this time, and if Council wants to pursue applying it citywide that there be a discussion with the community first.

Mr. Huja said he is reluctant to adopt the ordinance if Fontaine Avenue businesses have not been notified.

Dr. Brown said the circumstances are different on Fontaine Avenue because the residents are farther away from the businesses.

Mr. Tolbert said he can notify the businesses on Fontaine Avenue prior to the second reading of the ordinance.

Ms. Szakos said she has received calls from other residential areas, and asked that Mr. Tolbert clarify the existing law.

Mr. Tolbert said his interpretation is that noise from commercial zones is not included, only noise originating from residential areas.

Mr. Brown said that is correct which is what led us to make changes to the downtown mall and to restaurants citywide.

Dr. Brown said it would be nice to have more data about complaints and decibel levels found as a result. He said this really involves one business and one neighborhood, and he does not want to correct the problem with a broad brush. He suggested changing the decibel level restriction to 60 or 65. He said he does not want to over-react. He said if there are problems elsewhere we should get documentation of them.

Mr. Huja agreed with Dr. Brown. He said we need to address the concerns in Belmont, and he would not mind going to 60 decibels.

Ms. Szakos said she thinks there is a rational basis for a 55 decibel level since that already exists in neighborhood zones.

Dr. Brown said he would support 60 decibels limited to commercial neighborhood zones.

Dr. Brown made a motion to approve the ordinance with a 60 decibel level in commercial neighborhood zones, Mr. Huja seconded the motion, and the ordinance entitled "AN ORDINANCE AMENDING AND REORDAINING SECTION 16-11 OF CHAPTER 16 (NOISE CONTROL) OF THE CHARLOTTESVILLE CITY CODE, 1990, AS AMENDED, RELATING TO NOISE FROM RESTAURANTS IN THE NEIGHBORHOOD COMMERCIAL CORRIDOR DISTRICT" was carried over to the next meeting for consideration.

Mr. Norris arrived at the meeting.

RESOLUTION: OPPOSING REDUCTION IN STATE FUNDING FOR CHARLOTTESVILLE PUBLIC SCHOOLS

Mr. Norris said the proposed resolution puts Council on record as opposing the bill summated by Delegate Bell. He said he understands the stress in Albemarle County, but does not believe the City Schools should be penalized because of it. He said his strong preference is to sit down in a collaborative fashion with Albemarle County.

On motion by Mr. Norris, seconded by Mr. Huja, the Resolution Opposing the Reduction in State Funding for Charlottesville Public Schools was approved by the following vote. Aye: Dr. Brown, Ms. Edwards, Mr. Huja, Mr. Norris, Ms. Szakos. Noes: None.

BID OPENING: ACCEPT BIDS FOR LEASE OF 4TH STREET, N.W. LAND FOR SINGLE ROOM OCCUPANCY FACILITY

PUBLIC HEARING/ORDINANCE: LEASE OF CITY-OWNED LAND AT 401 4TH STREET, N.W. FOR SINGLE ROOM OCCUPANCY FACILITY

Mr. Tolbert noted that the resolution authorizing purchase of the property has been deferred to March 1. He said the process is for Council to open and announce bids received. He said the proposed lease is for 40 years and one bid, from Virginia Supportive Housing, has been received. He said they propose to build 60 studio apartments, 30 for the homeless and 30 for low income persons. He said they will provide on-site support services and will make an annual payment equal to real estate taxes due, contingent on cash flow.

Ms. Edwards asked if any additional bids were received, and Mr. Tolbert said no.

Ms. Edwards closed the bidding process.

Mr. Tolbert said staff recommends awarding the lease to Virginia Supportive Housing.

Dr. Brown asked if the lease is affected by the ability of this group to obtain section 8 vouchers from Charlottesville Redevelopment and Housing Authority and Albemarle County.

Mr. Tolbert said if they are unable to secure vouchers or financing they would not consummate the lease. He said they need the option for the lease in order to proceed with financing.

The public hearing was opened, but as there were no speakers, the public hearing was closed.

Responding to a question from Ms. Szakos, Mr. Tolbert said the lease is for 40 years.

Mr. Brown noted that 40 years is the maximum allowed under state law. After 40 years they would have to go through this same process again.

Ms. Szakos asked what would the taxes be, and Mr. Tolbert said approximately \$70,000.

On motion by Ms. Szakos, seconded by Mr. Huja, the ordinance entitled “AN ORDINANCE AUTHORIZING THE LEASING OF REAL PROPERTY WITHIN THE CITY OF CHARLOTTESVILLE, COMMONWEALTH OF VIRGINIA, LOCATED AT 401 FOURTH STREET, N.W., AND IDENTIFIED AS PARCEL 26 ON CITY TAX MAP 32,” with Virginia Supportive Housing inserted, was offered and carried over to the next meeting for consideration.

OTHER BUSINESS

Dr. Brown asked Mr. Tolbert to discuss the City’s street acceptance in light of the calls received about streets that have not been accepted not being plowed and not having trash pickup.

Mr. Tolbert said that when a developer builds houses, the City did not accept the street until all houses are built and until the street is brought up to City standards. He said the policy has now been changed to whenever the public improvements are made. He said if the developer walks away we can call in their bond and do the work.

Mr. Norris said he would like to discuss allowing drumming on the downtown mall. He said restricting them was a well intentioned effort to regulate noise, but that made it illegal to drum. He asked that staff see what we can do to allow drumming within reason.

Dr. Brown noted that the issue that led us to look at this was that customers were leaving outdoor cafes as the noise was too loud. He said drums are not amplified, but they are loud. He said that restaurants should be involved in the discussion.

Dr. Brown said Google has approached the City about providing service, and asked for an update, and about whether we are working with Albemarle County as they would be needed to meet the population requirement.

Mr. Brown said Chris Engel in Economic Development is working on the issue.

Ms. Szakos said she would support doing this with the urban area of Albemarle County.

Mr. O’Connell suggested that the University of Virginia be involved as well.

PUBLIC

Ms. Andrea Weider, Highland Avenue, read a letter from the President of the Fry’s Spring Neighborhood Association regarding the neighborhood advocacy issue saying that they are reserving judgment until the details are flushed out and until there is a full neighborhood association meeting and while they appreciate the recommendation they are concerned about adding a new employee. In addition, they requested that at least three citizens be involved on a committee to hire the new City Manager.

Mr. James King, 2607 Jefferson Park Circle, a member of the board of directors of Fry's Spring Neighborhood Association, but speaking for himself, agreed with the letter read by Ms. Weider. He suggested that Council consult with Mr. Huja, Bob Tucker, Albemarle County Executive, and former City Manager Cole Hendrix about whether there is a need for a neighborhood advocate position. He said there should be a strong distinction between advocacy and accountability.

Ms. Peggy King, 2607 Jefferson Park Circle, supported Ms. Weider's comments. She said she has heard that the City has a policy of discouraging City employees from attending their own neighborhood association meetings, and suggested that policy be changed.

Mr. Jesse Fisk, President of the Belmont Neighborhood Association, said a neighborhood advocate would be great and would help alleviate problems before a final decision is made.

Mr. Allen Cass, a resident of Schuyler, representing Coupe de Ville on the Corner, said his restaurant has a loud and raucous environment and he would not want that to change. He asked where the sound would be measured be clarified.

Ms. Bane Miller Kelly, Rockland Avenue, said businesses are the heart of Belmont and she feels residents can work with businesses. She said she does not want to see musicians stopped.

Ms. Alison Ruffner, Grave Street, said it is offensive that the City is having to subsidize the water issue. She said her street is zoned R-1 and is impacted by the noise from restaurants. She said the issue is not music, but is the hour, the impact on the residents, and the environment.

A resident of 704 Graves Street said he is a music supporter and Belmont resident and understands both sides of the issue. He asked that Council not make a hasty decision that could negatively impact businesses. He said 55 decibels is too low. He said enforcement is selective given the number of offenses.

Dr. Joe Mooney, 201 Sunset Avenue, agreed with comments made about the neighborhood advocate position. He said that while the goal is laudable, he proposed a different approach. He suggested that the name of Neighborhood Development Services be changed to Neighborhood Preservation and Development Services. He said Council deserves to be congratulated for demanding objective data on the water issue.

Mr. Wes Wright, owner of Belmont BBQ, said there were previously crime problems in Belmont. He asked Council to be realistic as Belmont has always been a commercial district.

Mr. Falsini said that a restaurant has to serve food if it also serves alcohol and has music. He said music is brought in to boost business. He suggested that Council look at

supporting not requiring food. He asked that where sound would be measured be clarified as it was stated as “at or outside.” He said it is odd that only the police seem to be able to buy legitimate noise meters.

On motion by Ms. Szakos, seconded by Mr. Huja, Council voted (Ayes: Dr. Brown, Ms. Edwards, Mr. Huja, Mr. Norris, Ms. Szakos. Noes: None) to meet in closed session for discussion of appointments to City boards and commissions, and the compensation for the Acting City Manager, as authorized by Section 2.2-3711(A)(1) of the Virginia Code; and for discussion and consideration of the acquisition of real property on 4th Street, N.W., where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City, as authorized by Section 2.2-3711(A)(3) of the Virginia Code.

On motion by Ms. Szakos, seconded by Dr. Brown, Council certified by the following vote (Ayes: Dr. Brown, Ms. Edwards, Mr. Huja, Mr. Norris, Ms. Szakos. Noes: None) that to the best of each Council Member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion convening the closed session were heard, discussed or considered in the closed session.

APPOINTMENTS: BOARDS AND COMMISSIONS

On motion by Dr. Brown, seconded by Mr. Huja, Ms. Jacqueline Bryant was appointed (Ayes: Dr. Brown, Ms. Edwards, Mr. Huja, Mr. Norris, Ms. Szakos. Noes: None) to an unexpired term as the joint City/Council appointee and private service provider representative on the Charlottesville-Albemarle Commission on Children and Families. This term will expire on June 30, 2012.

The meeting was adjourned.