

COMMUNITY SAFETY & PUBLIC SERVICES COMMITTEE

October 6, 2009

City Council Chambers – Rouss City Hall

PRESENT: President Jeff Buettner; Vice-Mayor Michael Butler;
Councilor Evan Clark, John Hill, Milt McInturff, Les Veach
and John Willingham; Vice-President Art Major; Mayor
Elizabeth Minor (9)

ABSENT: None (0)

President Buettner called the meeting to order at 5:30 p.m.

Approval of Minutes – Councilor Willingham moved to approve the minutes of the September 1, 2009 meeting. *The motion was seconded by Councilor Major then unanimously approved by voice-vote.*

Interim City Manager Mr. Bob Noe explained a couple of items on the agenda. A couple of items were for Finance and Administration.

President Buettner stated that Council tabled a motion to approve a Conditional Use Permit for Milano's Restaurant to operate a nightclub. There was miscommunication if a representative needed to attend that meeting. President Buettner called upon Mr. Thompson who represented Milano's, LLC.

Mr. Thompson stated that the recommendations for 107 W. Boscawen Street were very restrictive. He gave a brief history of Milano's Restaurant. The building is owned by Rouss Fire Company. The fire company was in support of the restaurant. Mr. Thompson announced that Mr. John Lanzetta, Owner of Milano's, LLC, was present if there were any questions.

Mr. Thompson explained that when Mr. Lanzetta signed the lease four years ago, it was his understanding that he wanted to do business such as Sweet Caroline's. The noise levels have been .75 decibels. Business has been successful. At the last hearing there was a violation brought up. Mr. Thompson stated that his client got with the City, paid the fine and got an engineering firm. He stated that tabling the request was devastating to the business plan and the cost was overwhelming to his client. Mr. Lanzetta was asking to be given one more shot and was appreciative to be allowed to come before the committee tonight.

President Buettner stated that a motion was needed to take the approval back to a regular council meeting. Councilor Butler stated that he was not present at the original meeting and he would have voted that same way that Council voted. Councilor

Willingham stated that he also was not present at the meeting and asked for an overview.

President Buettner stated that the restaurant was given two citations for operating as a nightclub without a permit. The rules were understood, so the motion was tabled for six months. After six months of following the rules, then council would revisit the request.

Mr. Lanzetta stated that one citation was for loud noise at 10:24 p.m. for karaoke, not a live band. For 2 ½ years the restaurant has followed the 10 p.m. rule.

Zoning and Inspections Administrator, Vincent Diem stated that the City suspected there was going to be a violation that night. There was an advertisement that announced karaoke from 8 p.m. until 12 a.m. The advertisement was found on a Myspace website, so staff went to confirm if this was true. Mr. Lanzetta stated that it was not his advertisement; it was from a friend of the D.J. Mr. Diem stated the ad identified the location, address, date and time. Councilor Clark asked if D.J.'s and karaoke fell under the provision of a nightclub. Mr. Diem stated "yes." Councilor Butler asked Mr. Lanzetta if when he set this up, were guidelines given to the D.J. Mr. Lanzetta stated that he did not organize the event. It was set up by a bar manager that was no longer employed with Milano's. President Buettner asked Mr. Diem when the second citation was issued. Mr. Diem stated it was the end of July. Vice-President Major asked Mr. Diem if Milano's was issued a building permit. Mr. Diem stated yes for water damage and renovations at 107 W. Boscawen Street. Renovations for 111 W. Boscawen Street have been suspended until other drawings were received. Councilor Veach asked if the issue was regarding the number of police calls. Police Chief Kevin Sanzenbacher stated that thirty calls had been received since Milano's Restaurant opened; thirteen were for misbehavior within the last year.

President Buettner asked if Council would approve a motion to table from the last citation, which would mean re-visit in January. Councilor Willingham would make a motion to untable, but could not because he was not in attendance at the meeting in which the motion was tabled.

Councilor Clark moved a motion to untable the request of Milano's restaurant to operate as a nightclub. *The motion was seconded by Councilor Willingham.*

City Attorney Anthony Williams stated that there must be a ¾ vote in favor of to pass.

Councilor Butler stated that he could not support the motion but could support the alternative to review by December 31, 2009.

Vice-President Major asked Mr. Diem if there had been any ABC violations. Mr. Diem replied that their license had been suspended for 10 days and received a \$3000 fine for

underage drinking. Mr. Lanzetta explained that this was done under the bar manager that was no longer employed.

The motion did not pass with Councilors Clark, Willingham, Buettner, Hill, and Mayor Minor voting for and Councilors Butler, Veach, McInturff, and Major voting in opposition.

Community Safety Report – Chairman Minor

- Discussion on the Court House Inspection- Sheriff Lenny Millholland

Sheriff Lenny Millholland presented an update on the Joint Judicial Center Inspection. The inspection was necessary to receive certification from the Virginia Department of General Services in Richmond. Sheriff Millholland stated that 86 pages had to be completed. The application had to be signed by City Attorney Anthony Williams and Frederick County Attorney Rod Williams. The estimated cost for inspection was between \$1500-\$1900. In order to proceed, there were a multitude of things that needed to be examined, such as handicap doors, etc. After receiving certification, the courthouse could charge a \$2.00 courthouse compliance fee. The City has requested Frederick County to pay half of the application fee.

Mr. Anthony Williams stated that he received a letter from County Administrator John Riley and County Attorney Rod Williams that they agreed this would be beneficial.

Vice-President Major moved a motion to accept the continuation of the inspection. *The motion was seconded by Councilor Veach.*

Mr. Anthony Williams stated that this did not need to be forwarded to a regular council meeting. The committee level was sufficient.

The motion was unanimously approved by voice-vote.

- Motion to send forward a resolution of the Common Council of the City of Winchester, Virginia, authorizing the issuance, in an aggregate principal amount not to exceed \$175,000,000, by the Industrial Development Authority of the City of Winchester of its Hospital Revenue Bonds (Valley Health System Obligation Group), series 2009 – IDA Attorney Mike Bryant

Mr. Bryant stated that this was new money and the IDA was not refinancing. The Bond market is what drives these transactions.

Councilor Willingham moved a motion to forward the resolution to City Council. *The motion was seconded by Mayor Minor and unanimously approved by voice-vote.*

- Motion to send forward a resolution of the Common Council of the City of Winchester, Virginia, authorizing the issuance, in an aggregate principal amount not to exceed \$7,500,000, by the Industrial Development Authority of the City of Winchester of its Economic Development Revenue Bonds (Sunshine's Pride Dairy, Inc.) series 2009- Economic Development Director Jim Deskins

Councilor Willingham recused himself from discussion.

Mr. Deskins stated that the proposal was for the location of 801 N. Kent Street, former location of Rich Foods, to convert to a cheese manufacturing plant. The opening of the plant would create about 100 jobs. The location is currently zoned for this proposal. The proposal has been recommended by the IDA for approval based on the increases in tax revenue and jobs. Mr. Deskins stated that the City has had the second highest job loss in the state of all metropolitan areas. The City had a 13% reduction in manufacturing between July 2008 to July 2009.

The applicant requested to discharge up to 500 pounds per day of BOD. The manufacturer would initially discharge up to 250 pounds of BOD per day with the potential of discharging 500 pounds per day. The manufacturer has agreed to install pretreatment to address the issue and to minimize any impact on the sewage treatment facility. Public Services Director Perry Eisenach recommended that plant be allowed to discharge no more than 250 pounds per day of BOD. Rich Food's discharged an average of 225 pounds of BOD per day.

Councilor Clark asked if the pretreatment that Mr. Deskins mentioned would lower the 250 pounds of BOD per day or would it stay the same. Mr. Deskins referred to Mr. Ron Mislowsky with Patton, Harris and Rust for technical questions.

Mr. Mislowsky explained that the 500 lb limit is assuming they have pretreatment. The plant would initially process 150,000 gallons of milk per week, which would produce 1800 lb of BOD per day and the pretreatment would reduce that in the initial phase to 130-180 pounds of BOD a day. This results in a certain concentration which results in a surcharge paid to the sanitation authority.

There was some discussion regarding the capacity of the Wastewater Treatment Facility.

Mr. Noe explained that this has been an intense process for staff and others and felt it was important to hire some technical expertise that we did not have on city staff. We have consulted with the firm Malcolm Pirnie, Inc. After receiving advice from the firm, Mr. Noe expressed concern regarding the odor that will be produced. He stated the City should protect the citizens, residences and pedestrian mall. Mr. Noe recommended that City Council not authorize the bonds.

President Buettner stated that he understood Mr. Noe's concerns, but this is something that the City should have looked at sooner. If the City decided not to authorize the bonds it still would not preclude them from coming into the City. President Buettner stated he would vote for the bonds. The City zoned the area that way and it would be perfectly allowable with restrictions.

Vice-President Major stated that he would support the bonds based on what President Buettner said. Mr. Major had made some calls to the state of New York and other cities that had cheese factories and no one stated they had ever had any problems or odors.

Mr. Mislowsky stated that the operation would get better and better and would discharge less BOD.

Mr. Butler asked the manufacturer's owners if the process at the Hicksville plant was similar. The owner stated yes and they have had no problems and commented that if they need to adjust, they would adjust. The owner stated that there were residents right across the street of the plant.

Councilor McInturff stated he was in support of approving the bonds.

Clark stated that Council should approve the bonds.

Mayor Minor stated that she was in support of the bonds as well. Council should support opportunities that would provide jobs and make investments in our city.

Mr. Hill stated that he was concerned regarding the odor and would refer any citizens to contact the manufacturing facility with any complaints.

Councilor Veach stated that he was willing to support the bond, but also thanked Mr. Noe for the information he brought forth.

Vice-Mayor Butler moved a motion to approve the bonds and forward to City Council. *The motion was seconded by Mayor Minor and unanimously approved by voice-vote with Councilor Willingham abstaining.*

- Discussion on converting the parking lot at the Joint Judicial Center into a park-OTDB Executive Director Karen Helm.

Old Town Development Board Executive Director Karen Helm stated that there were three board members present; they were Kim Sowers, Ben Weber, and Dave Smith. Ms. Helm stated that the OTDB understands that Interim City Manager Mr. Noe recommended not to take action in creating the park at this time. The park would allow the opportunity to host events downtown.

President Buettner stated that he was in support of the idea of having the space converted to a park, but was concerned that constitutional officers, Frederick County, Parks and Recreation Board and others that were to be affected by this have not been involved in the discussion. He challenged the OTDB to come back with a proposal of how much it would cost and what the park would be used for.

Ms. Helm stated that she thought it was appropriate to bring the idea to a Council committee for support first before consulting with other parties that would be involved.

President Buettner stated that he didn't know if the City would have the ability to authorize the concept without getting Frederick County involved for a joint decision.

City Attorney Anthony Williams stated that it was just approved earlier in the meeting to allow the Virginia Department of General Services to conduct a courthouse inspection. The inspection may require a certain number of parking spaces and advised that the City wait to see how parking affects the inspection.

Councilor Willingham stated that he was in support and inquired if there were enough in bonds to construct a park.

Mr. Noe stated that it could probably be done.

Public Services Director Perry Eisenach explained that the logistical challenges were that the City was getting ready to change the entrance and exit of the parking lot behind the Joint Judicial Center to accommodate Cameron Street being a two way street. The lot was to be paved, striped and the meters adjusted. The goal was to have this done by Thanksgiving.

Mr. Noe explained that this process should possibly be included in the next fiscal budget. The City does not have enough money to complete all projects and this project should be a priority in order to be considered. He stated that he wasn't against the idea of a park downtown, but it was a project that needed more research.

Councilor Clark agreed with Mr. Noe. Mr. Clark stated that the prospective parties need to be informed.

Vice-Mayor Butler also agreed with Mr. Noe that more information was needed before a decision was made.

Mayor Minor stated that it would be a perfect spot for a park and hoped to see it happen.

Vice-President Major stated that he thinks the park would be a great thing and should move forward following a process.

President Buettner stated that ideas have been brought up regarding more restrooms downtown as well as a visitor center. Mr. Buettner asked staff to get all the ideas together to see how we could make this work and come back with a plan that made sense that was complete. Mr. Buettner asked the committee if they agreed with the concept. Committee members nodded yes.

President Buettner stated that the park was not doable right now with the timeframe of construction.

Mr. Eisenach stated that it was possible to consider closing the parking area off and not repaving at all.

President Buettner stated from a procedure standpoint this project needed to wait.

- Motion to forward a resolution to approve a request to apply for the Edward Byrne Memorial Justice Assistance Grant (JAG) for the purchase of electro-muscular disruptive devices (Tasers) and 40mm projectile launchers and munitions. The City of Winchester was allocated \$20,786 as our portion of available funding with no local match required – Police Chief Kevin Sanzenbacher

Chief Sanzenbacher stated it was his intention to have all officers and the SWAT team to have 40 mm projectile tasers.

Vice-President Major moved to approve the resolution regarding the request of tasers and forward to City Council. *The motion was seconded by Councilor Clark and unanimously approved by voice-vote.*

- Discussion to reconsider the tabling of the Taylor Hotel Condemnation – Interim City Manager Bob Noe

After little discussion it was decided not to make a motion to untable the original decision.

- AN ORDINANCE TO REPEAL SECTIONS 2-47, 2-48, AND 2-49 AND AMEND AND RE-ADOPT SECTIONS 2-26 AND 2-31 OF THE WINCHESTER CITY CODE TO PROVIDE FOR CONSOLIDATION AND ABOLITION OF THE USE OF STANDING COMMITTEES BY COMMON COUNCIL – Interim City Manager Bob Noe

Mr. Noe stated that Council would need to decide which weeks they would like to meet in order to complete the proposed ordinance.

Mayor Minor moved to forward the ordinance to City Council for approval. The motion was seconded by Councilor Veach.

City Attorney Anthony Williams explained that the resolution that provided alternate council meeting dates could be amended. The City Code regarding the meeting date of regular council meetings could also be amended.

There was little discussion regarding holding meetings on the first and third Tuesday of each month.

The motion was unanimously approved by voice-vote.

Other Items

- Pending appointments to Boards and Commissions

Vice-President Major stated that there were no pending appointments to discuss.

- Submitted Reports for Information

Vice-President Major stated that submitted reports were included in the packets for committee members to review.

Adjourn

With no further business to discuss, the meeting adjourned at 6:59 p.m.