

MINUTES

October 9, 2012

The Winchester City Council met in a regular session on Tuesday, October 9, 2012, beginning with a public hearing at 6:00 p.m. The reason for the public hearing was Ordinance #952 and Ordinance #953, as described below.

Present and participating were: Mayor Terry Harrell, presiding; Beth Rhoton, City Administrator; Judy Baker, City Recorder Greg O'Neal, City Attorney; various Department Heads; George & Betty Fraley; David Foster & neighbors in and around Franklin Hills area; news media; and the following Council members:

Present: Councilman Bell
Councilman Hart
Councilman Spencer
Councilman Stewart
Councilman Womack

Absent: None

Mayor Harrell called the meeting to order with the prayer led by State Representative David Alexander and the Pledge of Allegiance led by Councilman Womack.

Mayor Harrell opened the public hearing for any comments on Ordinance #952, creating portable storage unit regulations and for Ordinance #953, setting the number of members for the Airport Board. No one spoke for or against the ordinance and the public hearing was adjourned.

The regular Council meeting began immediately after the close of the public hearing.

Under requests, addresses or presentations, the Council heard quarterly reports presented on the Utility Company and on the Airport. Airport Manager Zackary Colescott stated that the Airport has been awarded a \$515,000.00 apron expansion grant. Winchester Utilities Manager Mr. Caldwell stated the Utility Company was collecting oil from customers and converting it to a bio fuel & mixing it with diesel and running it in all their equipment and vehicles. He said that it only costs eighty-two cents (\$0.82) to make a gallon of the bio fuel as opposed to paying \$4.00 a gallon at the pumps. Clogs from grease poured down drains are presenting many problems with the pipes and bringing this oil to the Utility Company will help prevent some of these problems.

First under unfinished business, the reading of the minutes of the September 11, 2012 regular Council meeting was dispensed and approved on a motion by Councilman Stewart, seconded by Councilman Womack, and all voted in favor of said motion.

Next, the Council heard from Mrs. Betty Fraley, who requested a special zoning exception to allow a convenience store with gas pumps on her property zoned C-3 at Old Estill Springs Road and Bible Crossing Road. The request, discussion, and motions are summarized by the following bullets:

- Mrs. Fraley explained the history of her request.
- Mayor Harrell presented 3 options of zoning amendments for the Council's consideration noting that they would require three readings.
- Councilman Stewart asked City Attorney O'Neal for his interpretation of the zoning ordinance with numerous questions regarding whether gas pumps are allowed on Mrs. Fraley's property and referenced a court case (Mark Matlock d/b/a MSM Developments Inc. vs. Lenoir City Board of Zoning Appeals) and TCA Section 47-25-602.
- Attorney O'Neal stated that he believed the Planning Commission's analysis of the ordinance was valid, and he believed the Council should consider amending what is allowed in the C-3 district rather than rezoning the property to C-2.
- Councilman Stewart asked whether anyone had attended the Planning Commission meeting to speak out against the gas station.
- Mayor Harrell replied that they had at the last meeting but not during the initial approval of the C-3 rezoning.
- Mrs. Fraley and Mayor Harrell discussed the grandfathered status of Creekside Market in the C-3 district.
- Mayor Harrell recognized David Foster, who lives in Franklin Hills, representing the citizens that had signed the petition.
- Mr. Foster spoke in opposition of allowing a convenience store at this site for the following reasons: safety issues due to the intersection being oblong and not square combined with the existing traffic at the intersection, the possibility of gas spills or a ruptured gas line as many people in the area are on wells and a creek runs through the property which feeds into Tims Ford Lake, ten other convenience stores are within a 2 mile radius of the intersection including 2 that are now closed because they could not sustain enough sales leaving 8 still open, and the potential for increased loitering and crime in the neighborhoods around the site. Mr. Foster also stated that the presented petition had received a large number of signatures in a short amount of time, and someone else had one more page of names that was not presented as he could not attend the meeting.
- Mayor Harrell gave Mrs. Fraley the opportunity to address Mr. Foster's stated concerns, and she did not know why a gas station at this site would cause any more problems than the BP station at Bible Crossing and Sharp Springs Roads. She also didn't think there had been any wrecks at the intersection since the lanes had been marked off.
- Councilman Stewart made a motion to grant the Fraley's request of a special exception in the C-3 district allowing the operation of gas pumps. Councilman Stewart noted that his interpretation differs from Attorney O'Neal's, and from the court readings he researched in recent days, he believes the City would be otherwise left open to litigation.
- Councilman Bell seconded the motion as he thought this was a total misunderstanding and that Mrs. Fraley had been misled.
- Councilman Hart stated that it should be sent back to the Planning Commission to do it the right way from the start.
- Councilman Stewart asked if this would have to go back to the Planning Commission, and Mayor Harrell said that it would and will require three readings and a public hearing.

- Councilman Hart asked if this will go back to the Planning Commission for approval or not.
- Community Development Coordinator Daniel Galindo said that State law requires the Planning Commission to recommend or not recommend zoning amendments, and this would be a new ordinance from what had been discussed previously. However, it is the Council's decision to approve the ordinance or not.
- City Administrator Rhoton stated that her understanding was that State law just requires the recommendation as a step that has to occur.
- Mayor Harrell asked for all those in favor of the motion to signify by saying "aye" and those opposed to say "no". Upon receiving differing replies he asked for a roll call vote and the motion passed by the following three ayes to two nays:

Ayes: Councilman Stewart
Councilman Bell
Councilman Womack

Nays: Councilman Hart
Councilman Spencer

Next, the Council approved the third and final reading of Ordinance #952, amending Zoning Ord. #506, to create portable storage unit regulations. Motion for approval was made by Councilman Stewart, seconded by Councilman Bell, and all voted in favor by the following roll call:

Ayes: Councilman Stewart
Councilman Bell
Councilman Hart
Councilman Spencer
Councilman Womack

Nays: None

Next, the Council approved the third and final reading of Ordinance #953, amending Ord. #686 of the Winchester Airport Authority, Inc., to define the composition of the Winchester Airport Authority Board to consist of no less than five (5) members, but at no time shall said Board consist of more than seven (7) members at any time to be appointed to and serve on the Winchester Airport Authority Board. Motion for approval was made by Councilman Hart, seconded by Councilman Womack, and all voted in favor by the following roll call:

Ayes: Councilman Stewart
Councilman Bell
Councilman Hart
Councilman Spencer
Councilman Womack

Nays: None

In the first order of new business, City Administrator Rhoton informed the council that the only bid received for a TDOT surface transportation improvements grant for the Old Cowan Road and First Avenue, S.E. was submitted by Robertson-Vaughn Construction. Mrs. Rhoton stated that estimation of the cost was around \$278,000.00 but the bid that came in was for \$336,906.00, and she informed the Council there was not enough money budgeted. She suggested lumping this project in with several upcoming projects and making it a larger project in hope of

receiving better bids, and she recommended denying the bid. Motion to accept Mrs. Rhoton's recommendation for denying the bid was made by Councilman Stewart, seconded by Councilman Hart, and all voted in favor.

Next, City Administrator Rhoton discussed STP improvements for the Lynchburg Highway, which is actually a State route and not a city roadway. She anticipates the city may be given that property when the new Bypass comes in and we have to submit a project list to the State of Tennessee for some of their gasoline monies. Mrs. Rhoton would like to go ahead and add the highway to our project list as it usually takes two to five years before we begin something, and we need to get it on our list if it does become our property at any point. She further stated that this would be a top priority for us because of the drainage ditches and no shoulders on the Lynchburg Highway. Mrs. Rhoton said she needs a motion that the Council agrees that we can add the Lynchburg Highway to our project list. Motion to accept Mrs. Rhoton's recommendation was made by Councilman Stewart, seconded by Councilman Womack, and all voted in favor of said motion.

Last under new business, Finance Officer Martha Carol Luttrell requested approval of the end of the year finance reports and also the reports from July and August as reviewed and presented by the Finance Committee. She stated the city ended the year with \$274,000 below our amended budget, which she said was due to a lot of hard work from our employees, and stated that our revenues are \$168,000 above what we budgeted. Motion for approval was made by Councilman Hart, seconded by Councilman Spencer, and all voted in favor.

Under City Administrator communications and updates, Mrs. Rhoton stated there were approximately 350 runners representing nineteen states for the Plunge Marathon. Volunteers worked at 114 intersections and three water stations and Mrs. Rhoton thanked the staff, hospital, agencies, and everyone who helped to make the marathon a success.

Under Council communications and updates; Councilman Stewart gave an update on the Design Review Committee and stated that new officers had been selected; Councilman Bell said that several runners told him that this was the best managed marathon they had participated in; and Councilman Womack reminded everyone to spend their tax dollars at home.

Under mayoral communications, Mayor Harrell echoed Mrs. Rhoton comments about the Marathon and said that the success of events like that don't happen by accident. He thanked all who played a part in the marathon, especially city employees who played a big roll in it, and thanked Mrs. Rhoton, whom he knew worked very hard on this event.

With no further business to be brought before the Council,

the meeting adjourned on a motion by Councilman Stewart, seconded by Councilman Hart, and all voted in favor of said motion.

City of Winchester's website is:
www.winchester-tn.com
and the
International Dogwood Festival website is:
www.winchesterdogwoodfestival.com

Terry Harrell, Mayor
City of Winchester

Attest:

Beth Rhoton, City Administrator

Minutes taken and typed by: Judy Baker

Date of Meeting: October 9, 2012