

A THE REGULAR MEETING OF THE BRISTOL, VIRGINIA, CITY COUNCIL WAS HELD ON SEPTEMBER 13, 2016, AT 6:00 P.M. IN COUNCIL CHAMBERS, 300 LEE STREET, BRISTOL, VIRGINIA WITH MAYOR WILLIAM HARTLEY PRESIDING. COUNCIL MEMBERS PRESENT WERE VICE MAYOR JIM STEELE, J. DOUGLAS FLEENOR, ARCHIE HUBBARD, III, AND KEVIN MUMPOWER. CITY MANAGER, TABITHA CROWDER, AND CITY ATTORNEY, PETE CURCIO WERE ALSO PRESENT.

Mayor Hartley called for a moment of silence followed by the pledge of allegiance to the flag.

A. Mayor’s Minute and Council Comments

Mayor Hartley thanked City staff for their hard work at events held downtown for the Battle at Bristol and for the work to be done at the upcoming Rhythm and Roots festival. Mayor Hartley announced the scheduled dates to review the Comprehensive Plan Open House and invited all to attend.

A Proclamation to Recognize Child Passenger Safety Week was read and presented to Buckle up for Life representative, Mr. Daniel Jones.

A PROCLAMATION TO RECOGNIZE CHILD PASSENGER SAFETY WEEK

WHEREAS, children are our future and it is the responsibility of parents and caregivers to keep America's children safe; and

WHEREAS, car seats are required by law for children traveling in motor vehicles; and

WHEREAS, traffic crashes are the leading cause of death for children ages 1 to 13; and

WHEREAS, research shows that car seats reduce the risk of fatal injury for infants by 71 percent and by 54 percent for toddlers in cars, and by 58 percent and 59 percent for infants and toddlers in SUVs, pickups and vans; and

WHEREAS, parents and guardians must make sure that children, age 12 and under, always ride in the back seat, buckled up in properly installed child safety seats, and a rear facing child seat should never be placed in the front seat of a motor vehicle equipped with a passenger air bag; and

WHEREAS, Bristol, Virginia and Tennessee encourage parents and caregivers to implement best practices for traveling safely with children; and

WHEREAS, the Cities of Bristol, Virginia and Tennessee is committed to working closely with our partners and safety advocates, such as Buckle Up for Life to help make the kind of choices that will keep children alive and safe; and

WHEREAS, children riding in the right seat for their age and size can be accomplished by a car seat inspection that ensures the safety of a child while traveling.

NOW, THEREFORE, We, Chad Keen and Bill Hartley, the Mayors of Bristol, Tennessee and Virginia do hereby proclaim the week of September 18-24, 2016 as Child Passenger Safety Week. We encourage all citizens to help reduce injuries and the tragic loss of life by buckling up themselves and their children, every trip, every time.

1. Ordinance

1st Reading

Consider First Reading of an Ordinance to Enact §2-28 Rules of Order, §2-29 Conduct of City Council Meetings, §2-30 Agenda, §2-31 Agenda Format, §2-32 Citizen Participation, and §2-33 Mayor’s Minute and Council Comment

Mayor Hartley entertained a motion for the first reading of an Ordinance to enact §2-28 Rules of Order, §2-29 Conduct of City Council Meetings, §2-30 Agenda, §2-31 Agenda Format, §2-32 Citizen Participation, and §2-33 Mayor’s Minute and Council Comment.

Council Member Hubbard made a motion to table the first reading of an Ordinance to enact §2-28 Rules of Order, §2-29 Conduct of City Council Meetings, §2-30 Agenda, §2-31 Agenda Format, §2-32 Citizen Participation, and §2-33 Mayor's Minute and Council Comment. Motion was seconded by Vice Mayor Steele and carried by the following votes:

AYES: Fleenor, Hubbard, Mumpower, Steele, and Hartley

2. Consider General City Council Procedures

Mayor Hartley expressed the need to document general procedures for the Council to follow. He added that some of the procedures were currently being followed but were not formally documented.

Michael Pollard commented on the proposed procedures.

Mayor Hartley entertained a motion to adopt the General City Council Procedures.

Council Member Hubbard made a motion to table the General City Council Procedures. Motion was seconded by Council Member Fleenor and carried by the following votes:

AYES: Fleenor, Hubbard, Mumpower, Steele, and Hartley

3. Discussion of Planned Capital Needs

City Manager, Ms. Tabitha Crowder, gave an overview of the Capital Projects which were included in the approved FY16/17 budget on March 22, 2016. She pointed out that the capital projects included a landfill liner, Lee Highway Exit 4 Phase 1A, fire respiratory equipment, computer network infrastructure, a police bomb tech suit, a transit bus and fare boxes.

She pointed out that additional funding was needed for the internal roads at The Falls. She advised that this was a contractual obligation of the city which would include the cost to design and construct the Phase I roundabout, Phase II and III roads. She added that the costs to be incurred would include street lights, landscaping, and bond fees.

4. Presentation by Davenport & Company on the Results of the Request for Proposal Process for Financing Planned Capital Needs

Mr. David Rose, Davenport & Company, reported that four proposals for City financing had been received for consideration. He advised that the proposals included two (2) alternatives, direct bank loans and underwriting services. Mr. Rose gave an overview of the financing options. Based upon the proposals received, Mr. Rose recommended that the City proceed with direct bank loans as proposed by Capital Bank. The proposal was as follows: Series A: up to three million dollars (\$3,000,000), interest rate: one point nine two percent (1.92%) and Series B: up to three million dollars (\$3,000,000), interest rate: one point eight nine percent (1.89%).

5. Public Hearing Regarding the Proposed Issuance of a General Obligation Bond and/or a General Obligation Note of the City of Bristol, Virginia

Mayor Hartley declared the public hearing open for discussion.

The following individuals commented on borrowing funds for road improvements at the Falls project:

Ms. Nancy Marney, Mr. Kevin Wingard, Ms. Elizabeth Foran, Mr. Michael Pollard, and Ms. Catherine Jewell.

Mayor Hartley declared the public hearing closed.

6. Ordinance

1st Reading

Consider First Reading of an Ordinance to Amend Article II Zoning of the City Code of Bristol, Virginia Creating a New Section 50-176 for Temporary Uses under Division 10 Supplemental Regulations in Addition to Added Definitions under Section 50-28

City Planner, Sally Morgan, summarized the changes made to the proposed Ordinance since the public hearing on June 14, 2016.

Mayor Hartley entertained a motion for the first reading of an Ordinance to amend Article II Zoning of the City Code of Bristol, Virginia creating a new Section 50-176 for Temporary Uses under Division 10 Supplemental Regulations in addition to added Definitions under Section 50-28 by caption only.

Council Member Fleenor made the motion for the first reading of an Ordinance to amend Article II Zoning of the City Code of Bristol, Virginia creating a new Section 50-176 for Temporary Uses under Division 10 Supplemental Regulations in addition to added Definitions under Section 50-28 by caption only. Motion was seconded by Council Member Mumpower and carried by the following votes:

AYES: Fleenor, Hubbard, Mumpower, Steele, and Hartley

City Attorney, Pete Curcio, read the following Ordinance:

ORDINANCE CREATING REGULATIONS ADDRESSING TEMPORARY LAND USES; AN ORDINANCE AMENDING ARTICLE II ZONING OF THE CITY CODE FOR BRISTOL VIRGINIA; CREATING A NEW SECTION 50-176: TEMPORARY USES UNDER DIVISION 10 - SUPPLEMENTAL REGULATIONS IN ADDITION TO ADDED DEFINITIONS UNDER SECTION 50-28.

SECTION 1. The City Council finds that:

WHEREAS, the City Department of Community Development has encountered issues in the recent past regarding certain temporary land uses and how they are to be addressed in regard to City zoning regulations.

WHEREAS, these temporary land uses include mobile food vending which is becoming popular in cities across the country, as well as temporary seasonal sales of agricultural-related products and temporary portable storage containers; and

WHEREAS, there are concerns that the City needs to have some basic regulations for the conduct of temporary uses in order to provide protection of public health, safety, and welfare, but also allowing the establishment of reasonable uses of property for certain temporary businesses and temporary storage needs; and

WHEREAS, a joint public hearing with the Planning Commission was held on the 14th day of June 2016 at Council’s regular meeting; and

WHEREAS, a second reading of the proposed amendment was held on _____, 2016 at a regularly scheduled council meeting.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF BRISTOL, VIRGINIA:

SECTION 2. The City Code of Bristol, Virginia is hereby amended to read as follows:

....ARTICLE II ZONING

50-28 Definitions (add in alphabetical order to the list of definitions)

Mobile food vending unit means a trailer, vehicle, pushcart, or stand (either motorized or non-motorized) subject to Virginia Department of Health regulations and designed to be portable, not permanently attached to the ground and to utilities, and from which only prepared food or beverages are displayed, offered for sale, sold, or given away. This definition excludes mobile food vendors for city-authorized special events or special events by church or non-profit organizations of no more than three (3) days in duration.

Portable storage containers means a transportable unit designed and used for the temporary storage of materials or furnishings associated with construction, renovation, or relocation activity on the property where the container is placed. This definition excludes the following: 1) the use of storage containers for a consecutive ten (10)-day period or less for loading and unloading furnishings; 2) commercial refuse containers which are regulated in Section 40-72 of City Code, and 3) temporary office units associated with construction activity on the same site.

Temporary Seasonal Sales means outside sales or distribution of agricultural or horticultural products that are seasonal in nature, including agricultural products, bedding plants, and Christmas trees; but excluding outside sales activity that is conducted on a site

with an existing permitted retail operation and that is conducted by the on-site tenant or property owner and is clearly incidental to the primary use of the property. This definition excludes yard sales conducted by property owners or residents on their own premises as long as they are limited to no more than three (3) days in duration and no more than two (2) yard sales on the same property per calendar year. The definition also excludes temporary outdoor sales conducted by church or non-profit organizations of no more than three (3) days in duration.

Temporary Use Permit means a permit authorized by the city to allow a property owner or tenant to conduct a temporary use at a specific location in compliance with this article. Temporary uses on city-owned property are subject to established city policies and procedures.

50-176 *Temporary Uses*

(a) Mobile Food Vending Units. Mobile Food Vending Units are allowed on property zoned either business or manufacturing (B-1, B-2, B-3, M-1, and M-2) provided a city Temporary Use Permit is obtained and the following requirements are met:

- (1) The operator shall have a current permit from the Virginia Department of Health for a mobile food vending unit;
- (2) The operator shall have a current city business license;
- (3) If the operator is not the property owner where the unit will be located, written permission from the property owner must be provided;
- (4) The unit cannot be located in the public right-of-way, in loading zones or fire access zones, or consume otherwise necessary parking spaces; The unit shall not block site distance or create a hazardous traffic situation;
- (5) The unit must meet the setbacks of the zoning district;
- (6) The unit shall not remain stationary on the property overnight; other than at the location where it is being stored and serviced when not in operation.
- (7) The mobile unit shall be not be permanently placed on the property and no permanent structure shall be attached to the mobile unit;
- (8) Any signage shall be securely attached to the mobile food unit;
- (9) There shall be a minimum buffer of one-hundred (100) feet between the mobile vending unit and any primary residential structure;
- ~~(10) No mobile food vending unit shall be located within one hundred (100) feet of the front door of an existing restaurant if the mobile unit is in the B-2 district; or within one hundred (100) feet of any property line of an existing restaurant if the mobile unit is in one of the other permitted districts, unless written permission is granted from the restaurant. The use of the term "restaurant" in this section includes any establishment that sells prepared foods inside a building whether seating area is provided or not.~~
- (10) As part of the review process for an application for a temporary use permit, the Zoning Administrator may consider certain site conditions, such as, but not limited to, the size and condition of the parking area, and the safety of ingress and egress, and the proposed storage area for the unit when not in use. Any storage area for a unit shall also meet paragraphs (3), (4) and (5) above.

(b) Temporary Seasonal Sales. Temporary seasonal retail sales activity as defined in Section 50-28 is allowed on property that is zoned either agricultural, business or manufacturing (A, B-1, B-2, B-3, M-1, and M-2) provided a city Temporary Use Permit is obtained and the sales activity meets the following requirements:

- (1) The operator of the sales activity shall have current business license;
- (2) If the operator is not the property owner, written permission from the property owner must be provided;
- (3) The activity shall meet the front yard setback for the district in which it is located;
- (4) None of the sales activity shall block site distance or create a hazardous traffic situation;

- (5) The duration of the outdoor sales activity shall be restricted to no more than ninety (90) days. An extension of time may be allowed if a site plan meeting the requirements of Article VII, Division 3 is approved.
- (6) Unless excluded from the definition of “temporary seasonal sales” as found in Section 50-28, temporary outdoor retail sales of products that are not agricultural or horticultural in nature are not allowed.

(c) Portable Storage Containers Portable Storage Containers are allowed in any zoning district provided that the following requirements are met:

- (1) The container shall not be placed on any lot that does not contain an existing principal building or a principal building under construction; and shall only be permitted as an accessory use to the principal use of the lot on which such container is located;
- (2) No container shall be placed in the public right-of-way;
- (3) The container shall not be connected to utilities;
- (4) The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited;
- (5) On properties containing a residential use, a Temporary Use Permit is required for the storage unit. No more than one (1) storage container may be allowed on one lot, and the location of the container shall meet the required front yard setback area for the zoning district to the greatest extent possible, and the container shall be at least ten (10) feet from side and rear property lines, or in a private driveway.
- (6) On non-residential properties, more than one (1) portable storage container may be allowed on a lot. The location of any container shall be in the side or rear yard of the structure and shall be located no closer than five (5) feet to any side or rear property line. A temporary use permit is not required, however the unit must meet other requirements in this section, and the placement of multiple storage containers on the lot is subject to the site plan review process.
- (7) No portable storage container shall be located on or block access to, a required parking space, public sidewalk, circulation aisle, or fire access lane, or cause a visual obstruction to pedestrians or motor vehicles leaving or entering the property.
- (8) The duration of the portable storage container on a residential lot shall be restricted to sixty (60) days. A Temporary Use Permit may be renewed for one additional thirty (30) day period.

(d) Permit and Fees. Temporary uses specified in (a), (b), and (c), unless specifically exempted, require a Temporary Use Permit to be issued by the city. A temporary use permit may be revoked by the city if the requirements of Section 50-176 are not met. The following shall be the fee schedule for temporary use permits:

- (1) Mobile Food Vending Units - ~~\$50 each three (3) month period per location or \$100 for an annual permit per location~~ \$100 per location per 6 month period and \$250 per 6 months for up to 5 multiple locations
- (2) Temporary Seasonal Sales - \$100 for each three (3) month period per location.
- (3) Portable Storage Container for Residential Use - \$50 for 60-day period. May be renewed for another 30 days with \$50 fee.

SECTION 3. Severability Clause

If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 4. Compilation

Section 2 of this ordinance shall be incorporated and made a part of the Bristol, Virginia City Code, with applicable changes in numbering of Articles, Divisions and Sections as required.

SECTION 5. Effective Date

This ordinance shall take effect 30 days after the second reading.

First Reading: September 13, 2016

Second Reading: _____

Adopted: _____

7. Overview of the Locality Comparison Process

City Manager, Ms. Tabitha Crowder, reported that City staff had gathered financial information of localities with similarities to Bristol, Virginia in regards to population, land area, and median income. She added that management had analyzed the City’s costs by function compared to other localities. She advised that, moving forward, this information would be used as part of the budget process.

- 8. Consider Approval of the Minutes: Regular Meeting – August 9, 2016
Regular Meeting – August 23, 2016

Mayor Hartley entertained a motion for the approval of the Minutes from the Regular Meeting of August 9, 2016, and the Minutes from the Regular Meeting of August 23, 2016.

Vice Mayor Steele made the motion to approve the Minutes from the Regular Meeting of August 23, 2016. Motion was seconded by Council Member Hubbard and carried by the following votes:

AYES: Hubbard, Mumpower, Steele, and Hartley

ABSTAIN: Fleenor

Council Member Hubbard made the motion to approve the Minutes from the Regular Meeting of August 23, 2016. Motion was seconded by Vice Mayor Steele and carried by the following votes:

AYES: Fleenor, Hubbard, Mumpower, Steele, and Hartley

B. Matters to be Presented by Members of the Public – Non-Agenda Items

Mr. Kenneth Kistner commented on the disrepair of the sidewalks in the 700 through 900 blocks of Fairmount Avenue.

Ms. Nancy Marney commented on the obligations of the City and of Interstate Realty related to The Falls project.

Ms. Catherine Jewell commented on the prospective tenants at The Falls project.

Ms. Beth Rhinehart commented favorably on the proposed City Council policies, the Bristol, Virginia School System, and the support of the City for the Battle at Bristol events.

Mr. Kevin Wingard commented on cars traveling on the wrong side of the road at The Falls property and on the amount of money spent on The Falls development project.

C. Adjournment

There being no further business, the meeting was adjourned.

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City Clerk

Mayor