

THE REGULAR MEETING OF THE BRISTOL, VIRGINIA, CITY COUNCIL WAS HELD ON JUNE 12, 2018, AT 6:00 P.M. AT 200 LEE STREET, BRISTOL, VIRGINIA WITH MAYOR KEVIN MUMPOWER PRESIDING. COUNCIL MEMBERS PRESENT WERE VICE MAYOR KEVIN WINGARD, DOUGLAS FLEENOR, WILLIAM HARTLEY, AND ARCHIE HUBBARD, III. INTERIM CITY MANAGER/CITY ATTORNEY, RANDALL EADS AND CHIEF FINANCIAL OFFICER, TAMRYA SPRADLIN WERE ALSO PRESENT.

Mayor Mumpower called for a moment of silence followed by the Pledge of Allegiance to the flag.

A. Mayor's Minute and Council Comments.

Mayor Mumpower commented on the called meeting at the train station with Dharma Pharmaceuticals and Par Ventures. He stated the company is waiting on a state license before proceeding with their proposed idea to utilize the former mall as a pharmaceutical venue to make cannabis oil for medicinal purposes. The mayor stated the city supported the idea as the repurposing of the mall will generate revenue and increase job opportunities in the community. He also commented on the movement in the city regarding the progress of Hobby Lobby and American Merchant.

Council Member, Mr. Fleenor, commended the City Manager and mayor's leadership. Mr. Hartley commended Virginia High School's graduating class and the amount of scholarships awarded to the students. He also congratulated the high school soccer team for their successful season.

Mayor Mumpower asked for any item changes to the agenda. Mr. Hubbard made a motion to add a closed session regarding personnel matters to Item #3 closed session and

B. City Manager's Comments.

No comments were made by the City Manager.

REGULAR AGENDA

1. Consider Proclamation Recognizing Appalachian League President Lee Landers

City Manager, Mr. Randall Eads, read the proclamation recognizing Appalachian League President Lee Landers:

WHEREAS, Lee Landers began his career in professional baseball in 1959, working and managing baseball teams in Fresno, Twin Falls, Little Rock, Tulsa, New Orleans, and Springfield, Illinois, where he became General Manager of the Cardinals in 1982, and;

WHEREAS, his Cardinals team was awarded the Bob Freitas Award for Excellence in that first year, and was a nine-time winner of the Midwest League's Gold Award for excellence in operations, and;

WHEREAS, Lee Landers became the President of the Appalachian League in 1996, and has been honored with the Warren Giles Award for outstanding service as a Minor League President in 2001, the first annual Bowie Kuhn Award from Baseball Chapel in 2008, and;

WHEREAS, upon his retirement this summer, Mr. Landers will have served as President of the Appalachian League for twenty-two years, fighting to ensure that the Appalachian League continues to be recognized throughout professional baseball; now, therefore, be it

RESOLVED that the City Council of Bristol, Tennessee and the City Council of Bristol, Virginia, recognize and commend Lee Landers for his service to the community and to professional baseball in the cities of Bristol.

Council Member, Mr. Hubbard, made a motion to approve the proclamation recognizing Appalachian League President Lee Sanders. Motion was seconded by Vice Mayor, Mr. Wingard and carried by the following votes:

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

2. Consider Second Reading of a Budget Ordinance for the Fiscal Year 2018-2019

City Manager, Mr. Randall Eads, reported the proposed budget for the fiscal year 2018-2019 was presented to Council on April 24, 2018 and the first reading of the budget ordinance was on June 12, 2018. He recommended the second reading and adoption of the ordinance as presented.

Council Member, Mr. Fleenor, made a motion for the second reading on the budget ordinance for the fiscal year 2018-2019. Motion was seconded by Mr. Hubbard and carried by the following votes:

AYES: Fleenor, Hubbard, Wingard and Mumpower
 NAYES: Hartley

City Manager, Mr. Randall Eads, read the budget ordinance for the fiscal year 2018-2019 by caption only:

MAKING GENERAL FUND, CAPITAL PROJECT FUND, SCHOOL OPERATING FUND, SCHOOL TEXTBOOK FUND, SCHOOL FOOD SERVICE FUND, SCHOOL CONSTRUCTION CAPITAL PROJECTS FUND, SCHOOL LOCAL CAPITAL PROJECTS FUND, AND SOLID WASTE DISPOSAL ENTERPRISE FUND APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2018, AND ENDING JUNE 30, 2019, IN THE FOLLOWING AMOUNTS:

- GENERAL FUND \$51,594,173**
- CAPITAL PROJECT FUND \$11,673,839**
- SCHOOL OPERATING FUND \$26,954,256**
- SCHOOL TEXTBOOK FUND \$615,032**
- SCHOOL FOOD SERVICE FUND \$1,788,662**
- SCHOOL CONSTRUCTION CAPITAL PROJECTS FUND \$173,576**
- SCHOOL LOCAL CAPITAL PROJECTS FUND \$217,100**
- SOLID WASTE DISPOSAL ENTERPRISE FUND \$5,555,975**

AND REGULATING PAYMENTS OUT OF THE CITY TREASURY; AND ALSO FIXING THE TAX RATE ON REAL AND PERSONAL PROPERTY FOR FISCAL YEAR 2019.

Council Member, Mr. Fleenor, made a motion to adopt the budget ordinance for the fiscal year 2018-2019. Motion was seconded by Vice Mayor, Mr. Wingard, and carried by the following votes:

AYES: Fleenor, Hubbard, Wingard and Mumpower
 NAYES: Hartley

3. Closed Session pursuant to §2.2-3711.A5, Code of Virginia, 1950, as amended. Discussion concerning a prospective business or industry or the expansion of a business' or industry's interest in locating or expanding its facilities in the community (unannounced business prospect).

Closed Session pursuant to §2.2-3711.A.1, Code of Virginia 1950, as amended. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; (Personnel).

Council Member, Mr. Hubbard, made a motion to enter into closed session pursuant to §2.2-3711.A5, Code of Virginia, 1950, as amended. Discussion concerning a prospective business or industry or the expansion of a business' or industry's interest in locating or expanding its facilities in the community (unannounced business prospect). Motion was seconded by Vice Mayor, Mr. Wingard, and carried by the following votes:

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

3.1 Certify Closed Session

Mayor Mumpower certified the closed session by roll call.

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

4. Consider Second Reading and Adoption of an Ordinance to Vacate all of a Certain Public Right-of-Way in the City of Bristol, Virginia (By Caption Only)

City Manager, Mr. Randall Eads, reported the request is being made by Mr. Sam Keith, the owner of the property at 108 2nd Street. Mr. Eads stated the adjoining property owners have signed a petition to vacate the right-of-way. Mr. Eads stated the request has followed the procedure to vacate the right-of-way and has been circulated to other departments and BVU with no comments in opposition. Mr. Eads recommends approval of this vacation.

Director of Public Works, Mr. Wallace McCulloch, stated that a petition was signed by all four of the adjoining property owners with no comments in opposition.

Vice Mayor, Mr. Wingard, stated the City is required to perform due diligence ensuring that all property owners are in agreement with the matter. Mr. Wingard stated that many properties fall into the same category and should be maintained or resolved by the City.

Mayor Mumpower stated that the City needs to make a list of vacant properties that have been maintained by citizens through the years and vacate the properties as well.

Council Member, Mr. Hubbard, made a motion to approve the second reading of the ordinance to vacate a portion of an unimproved public right-of-way of two un-named alleys. Motion was seconded by Council Member, Mr. Fleenor, and carried by the following votes:

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

City Manager, Mr. Randall Eads, read the ordinance to vacate all of a certain public right-of-way in the city of Bristol, Virginia by caption only:

ORDINANCE TO VACATE A PORTION OF AN UNIMPROVED PUBLIC RIGHT-OF-WAY OF TWO UN-NAMED ALLEYS

4.1 Consider Adopting an Ordinance to Vacate all of a Certain Public Right-of-Way in the City of Bristol, Virginia

Councilman Fleenor made a motion to adopt the Ordinance to vacate all of a certain public right-of-way in the City of Bristol, Virginia. Motion was seconded by Vice-Mayor Wingard and carried by the following votes:

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

5. Consider a Public Hearing and First Reading of an Ordinance Change to the Appendix of Chapter 70

Mayor Mumpower opened the public hearing regarding the first reading of an ordinance change to the Appendix of Chapter 70.

City Manager, Mr. Randall Eads, reported he previously presented his proposed budget to Council on April 24, 2018 which included a \$4 increase to monthly trash collection fees. That increase will require amending the appendix of Chapter 70 of the City Code, including an emergency clause so that it will be immediately enacted. Mr. Eads stated a public notice of the ordinance change was advertised in the Bristol Herald Courier on June 7, 2018. Mr. Eads recommends a public hearing and the first reading of the

ordinance change as presented.

Michael Pollard made recommendations regarding the rate increase. Mayor Mumpower closed the public hearing.

Councilman, Mr. Fleenor stated that the ordinance change should have been approved prior to the budget approval. Mayor Mumpower and Vice-Mayor Wingard stated the budget must be approved first before amending the budget.

Councilman, Mr. Hubbard made a motion to approve the first reading of the ordinance change to the Appendix of Chapter 70. Motion was seconded by Mr. Hartley and carried by the following votes:

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

City Manager, Mr. Randall Eads, read the ordinance change to the appendix of Chapter 70:

AN ORDINANCE TO REPEAL AND REENACT *THE APPENDIX TO CHAPTER 70 OF THE CITY CODE*

BE IT ORDAINED by the City Council for the City of Bristol Virginia that the Appendix to Chapter 70 of the City Code should be and hereby is repealed and reenacted to read as follows:

APPENDIX TO CHAPTER 70—SOLID WASTE FEES

(1) Collection Fees for City Services.

- (a) *Single and two-family attached and detached residences, condominiums, townhouses, and any other residential unit where electric service is individually metered.* Each residence and residential unit will be assessed a collection fee. The city will provide a refuse receptacle for each residence. Waste will be collected once a week. Fees will remain in place and waste shall be collected while utilities are turned on, regardless if the residence or residential unit is occupied or vacant.

Monthly Fees Payable with Utility Bill

~~\$18.00~~-\$22.00

- (b) *Nonresidential establishments and non-individually electric metered multiple residential units* where service is provided with not more than four 95 gallon and/or 300 gallon, or any combination thereof, automated collection containers, provided by the City. Only locations which are accessible to automated collection vehicles will be served.

Charge, Payable Quarterly

1. 95 gallon containers: \$80.00 first container, \$35.00 each additional container.
2. 300 gallon containers: \$160.00 first container, \$85.00 each additional container.

Rates are based on one collection a week. If service is requested for more than one collection a week, additional collections shall be billed at half the rate.

- (c) *Eleemosynary Institutions.* The city will provide 95 gallon and/or 300 gallon automated collection containers. Only locations which are accessible to automated collection vehicles will be served. It shall be the responsibility of the institution to apply for and provide the necessary information to qualify for this category.

Charge, Payable Quarterly

1. 95 gallon containers: \$65.00 first container, \$20.00 each additional container.
2. 300 gallon containers: \$100.00 first container, \$55.00 each additional container.

Rates are based on one collection a week. If service is requested for more than one collection a week, additional collections shall be billed at half the rate.

- (d) *Bulk wood, brush or bulk waste collection for city-served nonresidential, multi-family locations and eleemosynary institutions.* Upon request, the city may provide special collection services to city-served establishments. A deposit in the amount of a single service load plus a one ton disposal fee is required prior to any collection.

Charge, Special Collections and Disposal

\$35.00 per collection service plus disposal fees at gate rate (one ton minimum). Service requiring more than a single load shall be considered as separate services for each load, and charged accordingly.

- (e) *Excess brush or waste collection for city-served single and two-family attached and detached residence, condominiums, townhouses and any other residential unit where electric service is individually metered.* The city retains the right to refuse to collect waste from residences where the volume exceeds the limits established in this chapter. Upon the request of the owner or resident, the city may provide special collection services to the residence. A deposit in the amount of a single service load is required prior to any collection.

Charge, Special Collections and Disposal

\$150.00 per collection for excessive brush, demolition, construction waste requiring the service of a grapple truck or rear loader.

Service requiring more than a single load shall be considered as separate services for each load, and charged accordingly.

(2) Disposal Fees.

- (a) Municipal solid waste\$30.00* per ton.
- (b) Inert (rock, brick, concrete, asphalt) waste\$30.00 per ton.
- (c) Construction and demolition waste\$30.00* per ton.
- (d) Brush\$35.00* per ton.
- (e) Minimum fee for (a) - (d) except as noted in (j)\$15.00
- (f) Leaves, grass, and yard waste \$35.00* per ton.
- (g) Bulk waste tire processing fee; tires not to exceed 24.5-inch wheel size (rimless only)\$115.00* per ton.
- (h) Tires not to exceed 24.5-inch wheel size (rimless only) brought in by other than Bristol, Virginia private residents\$6.50 each
- (i) Surcharge for each tire on rim, or encrusted with mud or rocks (e.g. waste stream tires)\$6.50
- (j) Waste tires, shredded\$30.90* per ton.
- (k) Bristol, Virginia private residents; all types of permitted waste
 1. Up to 500 lbs.\$3.00
 2. 500 to 1,000 lbs.\$5.00
 3. Over 1,000 lbs.\$30.00 per ton

Tires not to exceed 16-inch wheel size (rimless only) delivered by private residents in lots of less than five\$3.00* each.

* - Some waste streams are subject to additional fees.

(3) Commercial Refuse Container Permit Fees.

- (a) 1 to 5.99 cubic yards\$50.00 annually
- (b) 6 to 7.99 cubic yards\$100.00 annually
- (c) 8 cubic yards or larger\$200.00 annually
- (d) Temporary use containers
 - 1. 1 to 5.99 cubic yards\$15.00 quarterly
 - 2. 6 to 7.99 cubic yards\$30.00 quarterly
 - 3. 8 cubic yards or larger\$60.00 quarterly

6. Consider a Public Hearing on the Sale of City-Owned Property

City Manager, Mr. Randall Eads, reported that the City has received offers on the following parcels of land: a 0.3 acre parcel of land located at Randolph and Vance streets, and (ii) lot B-17 located in the Clear Creek subdivision. Mr. Eads stated that Council received a list of city owned properties to be listed for sale at the February 27, 2018 meeting and passed a resolution on the procedures to be used when an offer is received on April 10. Mr. Eads recommended approving the public hearing and consider offers received.

No public comments were made.

Mayor Mumpower closed the public hearing.

7. Consider a Motion Allowing the City Manager to Enter Into the Retainer Agreement with Sanford Heisler Sharp, LLP and Kaufman & Canoles, P.C.

City Manager, Mr. Randall Eads, reported that Virginia has been particularly hard hit by the opioid crisis, and localities have dedicated a significant amount of public resources and money to manage the problems resulting from the opioid crisis. Mr. Eads stated attorneys are proposing to prosecute claims against the companies they have identified as having contributed to and benefited from the opioid epidemic in Virginia and should the lawsuit be successful, the City of Bristol will receive 75% of monetary recovery received. Mr. Eads requested approval from Council allowing him to enter into a retainer agreement with Sanford, Heisler, Sharp, LLP and Kaufman & Canoles, P.C.

Michael Pollard commented on the lack of the recommended changes regarding the retainer agreement.

Mr. Eads stated that correspondence with the lead counsel regarding the recommended changes has been made and received.

Councilman, Mr. Hartley, stated the awarded amount is not worth the potential costs and expenses of the litigations and the process may take years before the City received any kind of monetary recovery. He also asked about the number of litigants participating in the litigation.

Mr. Wingard commented on the potential expenses to gather the evidence and information.

Councilman, Mr. Fleenor, made a motion to enter into the retainer agreement with Sanford Heisler Sharp, LLP and Kaufman & Canoles, P.C. Motion was seconded by Mr. Hartley and carried by the following votes:

AYES: Fleenor, Hartley, Wingard and Mumpower

NAYES: Hubbard

8. Consider Approving 2018 Loan Resolution for 401 Gordon Avenue, LLC

City Manager, Mr. Randall Eads, reported the owners of Oakmont Assisted Living and Quaker Steak and Lube are seeking approval of a subordinate agreement on the expansion on Oakmont property located at 401 Gordon Avenue. This subordination will allow the property owners the ability to apply for financing for the planned Oakmont expansion. The owners have successfully completed three such agreements with the city previously, one for Oakmont location and one for Quaker Steak and Lube located

downtown. Both businesses have combined to generate over \$1,000,000 in tax revenue to the city and this expansion will build on the success of this valuable local business. Mr. Eads, stated that Blair Jones, co-owner of Oakmont Assisted Living and Quaker Steak and Lube, reported that in June, they will only owe \$60,000 to the City. Mr. Jones, also stated that he intends to add 25,000 square feet to the memory care wing at Oakmont Assisted Living.

City Manager, Mr. Randall Eads, read the resolution approving the 2018 loan for 401 Gordon Avenue, LLC:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISTOL, VIRGINIA APPROVING THE 2018 LOAN FOR 401 GORDON AVENUE, LLC.

WHEREAS, the Industrial Development Authority of the City of Bristol, Virginia (hereinafter “the IDA”) conveyed Lot 2 of the Dale W. Gordon Business Park (hereinafter the “Property”) to 401 GORDON AVENUE, LLC (hereinafter the “Borrower”) by Deed dated April 14, 2015 of record in the office of the Clerk of the Circuit Court for the City of Bristol, Virginia in Deed Book 603 at page 628; and

WHEREAS, the Borrower conveyed the Property to Trustees to secure to the City of Bristol, Virginia (the “City”) and the IDA the repayment of \$100,000.00 and performance under an Economic Development Purchase and Performance Agreement dated November 21, 2014 (the “Obligations”); and

WHEREAS, the City and the IDA are Grantees under a Right of First Refusal for the Property of record in the aforementioned Clerk’s office in Deed Book 603 at page 624 (the “Right of First Refusal”); and

WHEREAS, the aforementioned Purchase and Performance Agreement envisioned that the liens in favor of the City and the IDA created by both instruments would be second to a lien created by Deed of Trust and Assignment of Leases and Rents for the benefit of the Bank of Tennessee to secure a note in the amount of \$7,951,414.00; and

WHEREAS, 401 Gordon Avenue, LLC, previously refinanced the indebtedness with the Bank of Tennessee by a Note in the amount of \$9,644,450.00, secured by a First Amended and Restated Credit Line Deed of Trust and Security Agreement and by a First Amended and Restated Absolute Assignment of Leases and Rents and the City and IDA subordinated the Obligations and Right of First Refusal to the aforesaid instruments securing amounts due to the Bank of Tennessee; and

WHEREAS, 401 Gordon Avenue, LLC is again refinancing the indebtedness with the Bank of Tennessee and borrowing additional amounts from the Bank of Tennessee pursuant to a Note in the amount of \$14,382,000.00, secured by a Second Amended and Restated Credit Line Deed of Trust and Security Agreement and by a Second Amended and Restated Absolute Assignment of Leases and Rents and the City Council of the City has agreed to subordinate the Obligations and Right of First Refusal to the Second Amended Credit Line Deed of Trust and Security and to the Second Amended and Restated Absolute Assignment of Leases and Rents securing amounts due to the Bank of Tennessee or to be advanced by the Bank of Tennessee to the Borrower; and

WHEREAS, a Subordination Agreement has been drafted in accordance with the aforementioned findings and is attached hereto as Exhibit A.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Bristol, Virginia that the Subordination Agreement attached hereto as Exhibit A is hereby adopted and the Mayor is expressly authorized to execute said document on behalf of the City.

Councilman, Mr. Hartley, commented on the late submission of the resolution.

Councilman, Mr. Hubbard, made a motion to approve the 2018 loan resolution for 401 Gordon Avenue, LLC. Motion was seconded by Vice-Mayor, Mr. Wingard, and carried by the following votes:

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

CONSENT AGENDA

9.1 Consider Purchase Requisitions – Total Amount: \$27,000.00

G.W. & Sons Excavating
Tons of brush grinding at \$13.00 a ton plus second grinding.

9.2 Consider Purchase Requisitions –Total Amount: \$59,326.08

Inmate Housing March 2018 \$48,374.00
Medical Expense \$10,952.08

9.3 Consider Approval of Minutes

Regular Meeting April 24, 2018
Regular Meeting May 18, 2018
Called Budget Workshop May 12, 2018
Called Meeting May 15, 2018
Called Budget Workshop May 15, 2018
Regular Meeting May 22, 2018

Councilman, Mr. Fleenor, made a motion to accept the consent agenda as presented with the exception of the April 24, 2018 minutes. Motion was seconded by Vice-Mayor, Mr. Wingard, and carried by the following votes:

AYES: Fleenor, Hartley, Hubbard, Wingard and Mumpower

Vice-Mayor, Mr. Wingard, made a motion to approve the April 24, 2018 minutes. Motion was seconded by Mr. Hartley and carried by the following votes:

AYES: Hartley, Hubbard, Wingard and Mumpower
ABSTAIN: Fleenor

C. Matters to be presented by Members of the Public – Non-Agenda Items

Michael Pollard commended the Bristol Virginia police department for their service in the community.

D. Adjournment.

There being no further business, the meeting was adjourned.

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City Clerk



Mayor