

## PUBLIC HEARING

---

### **1. Lowe's Home Centers, Inc. – Request for Zoning Code Amendment**

---

Emporia's City Council held a Public Hearing on Tuesday, December 17, 2013, at 6:30 p.m. in the Council Chambers of the Municipal Building, located at 201 South Main Street, Emporia, Virginia. Mayor Mary L. Person presided over the session.

The following City Council members were present:

Councilman F. Woodrow Harris  
Councilman James E. Ewing, III  
Councilwoman Doris T. White  
Councilwoman L. Dale Temple  
Councilwoman Carolyn S. Carey  
Councilwoman Carol Mercer

Others present: Mary L. Person, Mayor  
C. Butler Barrett, City Attorney  
Brian S. Thrower, City Manager  
Tessie S. Wilkins, City Clerk  
W. S. Harris, Jr., Treasurer  
Joyce E. Prince, Commissioner of the Revenue  
Sam Brown, Sheriff  
Don Wyatt, Chief of Police

Absent:

Councilwoman Deborah D. Lynch

### **1. Lowe's Home Centers, Inc. – Request for Zoning Code Amendment**

Mr. Thrower stated Lowe's Home Center, Inc. was requesting an amendment to Sec. 90-77 (b) of the City's Zoning Code. He also stated that the proposed amendment would add, "Warehouses and distribution centers, with a conditional use permit" as a permitted use in the C-2 (Commercial District) Zoning District. He further stated that if Council approves the request, Lowe's will, then need to apply for a Conditional Use Permit (CUP). He stated that during this process, the Planning Commission may recommend, and City Council may attach conditions to the issuance of the CUP, if granted.

Mr. Thrower reported that the Planning Commission unanimously recommended approval for the amendment as presented at its December 10, 2013 meeting.

He recommends that Council adopt the ordinance adding, "Warehouses and distribution centers, with a conditional use permit" to the list of permitted uses in the C-2 Zoning District.

Mayor Person asked if there was anyone present who wished to speak regarding this matter.

With there being no comments to come before City Council, Mayor Person declared this public hearing closed.

---

Mary L. Person, Mayor

---

Tessie S. Wilkins, City Clerk

**MINUTES  
EMPORIA CITY COUNCIL  
CITY OF EMPORIA MUNICIPAL BUILDING  
December 17, 2013**

***Note to Reader:** Although the printed agenda document for this City Council meeting is not part of these minutes, the agenda document provides background information on the items discussed by City Council during the meeting. A copy of the agenda document for this meeting may be obtained by contacting the Office of the City Clerk.*

Emporia City Council held a regular meeting on Tuesday, December 17, 2013 at 6:30 p.m. in the Council Chambers of the Municipal Building, located at 201 South Main Street, Emporia, Virginia. Mayor Mary L. Person presided over the meeting with Bishop Vincent Lowery offering the invocation.

**ROLL CALL**

The following City Council members were present:

Councilman F. Woodrow Harris  
Councilman James E. Ewing, III  
Councilwoman Doris T. White  
Councilwoman L. Dale Temple  
Councilwoman Carolyn S. Carey  
Councilwoman Carol Mercer

Others present: Mary L. Person, Mayor  
C. Butler Barrett, City Attorney  
Brian S. Thrower, City Manager  
Tessie S. Wilkins, City Clerk  
W. S. Harris, Jr., Treasurer  
Joyce E. Prince, Commissioner of the Revenue  
Sam Brown, Sheriff  
Don Wyatt, Chief of Police

Absent:

Councilwoman Deborah D. Lynch

**MINUTES APPROVAL**

Councilwoman Temple moved to approve the minutes from the Tuesday, December 3, 2013, Public Hearing and City Council Regular meeting as presented, seconded by Councilwoman White, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

## **APPROVAL OF BILLS**

A listing of the December 17, 2013 bills was presented to City Council members.

|              |    |            |
|--------------|----|------------|
| General Fund | \$ | 78,784.87  |
| Utility Fund | \$ | 888,306.16 |

Councilwoman Temple moved to approve the December 17, 2013 bills as presented, seconded by Councilwoman Carey, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

## **FINANCIAL AND TAX REPORTS**

Honorable W. S. Harris, Jr., City Treasurer provided his report to City Council members. There were no questions regarding his report.

## **COMMISSIONER OF THE REVENUE REPORT**

Honorable Joyce E. Prince, Commissioner of the Revenue provided her report to City Council members. There were no questions regarding her report.

## **PERMIT AND INSPECTION REPORT**

Randy C. Pearce, Building/Fire Official provided his report to City Council members. There were no questions concerning his report.

## **POLICE REPORT**

Don Wyatt, Chief of Police provided his report to City Council members. There were no questions concerning his report.

## **CITY SHERIFF REPORT**

Sam C. Brown, Sheriff provided his report to City Council members. There were no questions concerning his report.

### **CITY ATTORNEY REPORT**

C. Butler Barrett, City Attorney had no matters to report to City Council members.

### **AGENDA APPROVAL**

Councilman Ewing moved to approve the agenda as presented, seconded by Councilwoman Carey, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

### **UNFINISHED BUSINESS**

#### ***13-69. Farmers Market Advisory Board Expirations – Hannah Barrett/Morris White/Jean Cobb***

Mr. Thrower stated that on November 30, 2013, the four-year terms of Morris White, Hannah Barrett, and Jean Cobb on the City’s Farmers Market Advisory Board expired. He also stated that Council, previously re-appointed Jean Cobb to the Board for a four-year term.

Mr. Thrower stated that Council, previously nominated Tia Powell (Extension Office), Drexel Pierce (Extension Office), and Carrie Moore to the Board. He also stated that in order for Council to appoint all three of these individuals to the Board, Council would need to approve amendments to the Farmer Market Rules and Regulations allowing for additional appointments. He further stated that the recommended amendment read as follows: “City Council shall appoint no fewer than seven and no more than eleven persons to the Farmers Market Advisory Board.”

He recommends that Council approve the amendments to the Farmers Market Rules and Regulations and appoint individuals to the Farmers Market Advisory Board.

Councilwoman Carey made a motion to approve the amendments to the Farmers Market Rules and Regulations, and to appoint Tia Powell, Drexel Pierce and Carrie Moore to serve a four-year term on the Board, seconded by Councilwoman Temple, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

***13-43. City Code Section 74-13. Commercial Vehicle Routes; Certain Streets Closed to Commercial Vehicles Except Receiving Loads or Making Deliveries – Request by Council Member Harris – Additional Information***

Mr. Thrower reported that on April 6, 2005, City Council adopted an ordinance prohibiting truck traffic within the City limits. He also reported that the exceptions were granted allowing trucks to travel through the City on, I-95 and US 58 for the purpose of receiving loads or making deliveries. He further reported that the ordinance was unanimously recommended by the Planning Commission at that time.

Mr. Thrower stated that the purpose and intent of the ordinance is stated as follows: “To restrict commercial vehicles from traveling or passing through the City on certain streets as designated by ordinance of the Council in order to reduce or prevent congestion, hazardous traffic conditions, and to protect both public and private property within the boundaries of the City. Operators of commercial vehicles shall be restricted to the exclusive use of streets adopted by ordinance of Council in traveling or passing through the City, except for the purpose of receiving loads or making deliveries.”

Mr. Thrower stated that briefly researching this issue, it appeared that Overload Permits issued through the Virginia Department of Motor Vehicles (DMV) are no longer valid on roads within the Federal Highway System, i.e. I-95. He also stated that trucks traveling on I-95 must meet certain weight limits in order to avoid receiving a Virginia Overweight Citation from the State Police. He further stated that the amount of the citation issued through the State Police varies based upon the weight on the truck.

He stated that in order to avoid receiving a Virginia Overweight Citation, some trucks were now attempting to use Route 301, which runs directly through the City. He also stated that the amount of the citation (\$176) issued by the Emporia Police for traveling through the City without making a delivery or receiving a load is generally less than the Virginia Overweight Citation.

Mr. Thrower stated that Chief Wyatt and himself recommended maintaining the existing City Code prohibiting through truck traffic. He also stated that allowing through truck traffic will increase congestion and damage to City streets. He further stated that the trucks were still allowed to utilize I-95 within the prescribed weight limits. He stated that if Council wished to consider amending the ordinance, he recommends Council authorize conducting a public hearing on the matter at a future Council meeting. He also stated that Council may wish to have the Planning Commission review this issue given the fact that Council previously sought its input on the matter.

Franklin Myers, Gasburg Timber Association President, addressed Council stating that the truck can carry more weight on state highways than on the interstate highway. He also stated that with the enforcement of the no truck through the City of Emporia had put them at a competitively disadvantage because they get paid by tonnage and have to carry less weight on the interstate. He further stated that the problem is with the federal regulations in regards to weight limits on the federal highways, and those issues are currently under study by the federal government. He stated that the interests associated with the railroad industry are lobbying for tighter restrictions on truck weights on federal highways. He also stated that local log truck drivers have been issued fines ranging from a few hundred dollars to more than \$2,000.00 for driving overweight loads on, I-95 near Emporia. He further stated that in the past, logging trucks

could be loaded past their weight limits with an overload permit issued by the Virginia Department of Transportation, which allowed them to travel state highways as well as federal highways. He stated that Route 301 was a state highway and was asking Council to rescind its ban so that log trucks could drive Route 301 from points north of Emporia to the mills in North Carolina bypassing I-95 at least until the U.S. Department of Transportation finalizes weight restrictions on federal highways.

Councilman Harris made a motion for City Administration to consider what the City can do to mitigate against negative consequences that exist right now to meet the needs of the general public and the log trucking industry until the Map 21 studies are completed and release from the federal government, seconded by Councilwoman Carey, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

### **NEW BUSINESS**

#### ***13-73. City School Board Appointment***

Mr. Thrower stated that a public hearing was held and received one appointment to serve a four-year term on the City School Board, the following name was nominated: Bernadette Battle.

Councilwoman Temple made a motion to reappoint Bernadette Battle to serve a four-year term on the City School Board, seconded by Councilwoman Carey, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

#### ***13-74. Virginia Municipal League Insurance Programs – Request to Adopt Joint Powers Association Ordinance***

Mr. Thrower stated that on October 1, 2013, Council adopted the resolution to opt out of VRS Virginia Local Disability Program (VLDP) coverage and authorized the City Manager to execute all agreements necessary to have the City covered under Option 2 of the Virginia Municipal League Insurance Programs (VMLIP) Plan.

Mr. Thrower stated that per the instructions from VMLIP, Council would need to adopt an ordinance authorizing the City Manager to execute the Joint Powers Agreement on behalf of the City in order for the City to participate in the new VMLIP Plan.

Mr. Thrower recommended that Council adopt Ordinance No. 13-23 approving the Joint Association Agreement.

Councilman Harris moved to approve **Ordinance No. 13-23** approving the Joint Association Agreement, seconded by Councilwoman Mercer which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

***13-75. Lowe’s Home Centers, Inc. – Request for Zoning Code Amendment***

Mr. Thrower stated Lowe’s Home Center, Inc. was requesting an amendment to Sec. 90-77 (b) of the City’s Zoning Code. He also stated that the proposed amendment would add, “Warehouses and distribution centers, with a conditional use permit” as a permitted use in the C-2 (Commercial District) Zoning District. He further stated that if Council approves the request, Lowe’s will, then need to apply for a Conditional Use Permit (CUP). He stated that during this process, the Planning Commission may recommend, and City Council may attach conditions to the issuance of the CUP, if granted.

Mr. Thrower reported that the Planning Commission unanimously recommended approval for the amendment as presented at its December 10, 2013 meeting.

He recommends that Council adopt the ordinance adding, “Warehouses and distribution centers, with a conditional use permit” to the list of permitted uses in the C-2 Zoning District.

Councilman Ewing moved to approve **Ordinance No. 13-24** to amend Sec 90-77 (B) of the City’s Zoning Code, seconded by Councilwoman Temple which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

***13-76. Grant Funds – Appropriation Ordinance***

Mr. Thrower stated that the Police Department had received a grant from Walmart in the amount of \$500.00 for public safety. He also stated that the Police Department would use these funds to purchase training materials used in crime prevention activities. He further stated that in

order for the Police Department to utilize those funds for this purpose, Council must be appropriate them into the FY14 operating budget.

Mr. Thrower recommended that Council adopt Ordinance No. 13-25 to appropriate the sum of \$500.00 in grant funds from Walmart for Public Safety.

Councilwoman Temple moved to approve **Ordinance No. 13-25** to appropriate the sum of \$500.00 in grant funds from Walmart for Public Safety, seconded by Councilwoman Carey which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Doris T. White   | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman L. Dale Temple   | aye |

## **PUBLIC COMMENT**

Mayor Person asked if anyone wished to bring a matter before City Council members adhering to the three-minute time limitation.

*Mr.* Franklin Myers, Gasburg Timber Association President, addressed Council inquiring if it was okay for loggers to come though the City of Emporia now.

Mayor Person stated no not until an action is taken upon Council.

With there being no further comments to come before City Council, Mayor Person closed the public comment portion of the meeting.

**\*\*\*CLOSED SESSION\*\*\***

Councilman Harris moved that Closed Session be entered for the purpose of discussing Virginia Code Sections § 2.2 3711 (A) (7) **Legal matter requiring the advice of counsel pertaining to Social Services funding**, seconded by Councilwoman Mercer, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman L. Dale Temple   | aye |
| Councilwoman Doris T. White   | aye |

**\*\*\*Regular Session\*\*\***

Councilwoman White moved that the meeting be returned to Regular Session. Councilwoman Temple seconded the motion, which passed as follows:

|                              |     |
|------------------------------|-----|
| Councilman F. Woodrow Harris | aye |
|------------------------------|-----|

|                               |     |
|-------------------------------|-----|
| Councilman James E. Ewing     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman L. Dale Temple   | aye |
| Councilwoman Doris T. White   | aye |

---

## **CERTIFICATION**

Councilwoman White moved to certify the following:

1. only public business matters are lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the Closed Session to which this certification applies, and
2. only such public business matter as were identified in the motion by which the Closed Session was convened were heard, discussed, or considered by City Council.

Councilwoman Temple seconded the motion, which passed as follows:

|                               |     |
|-------------------------------|-----|
| Councilman F. Woodrow Harris  | aye |
| Councilman James E. Ewing     | aye |
| Councilwoman Carolyn S. Carey | aye |
| Councilwoman Carol Mercer     | aye |
| Councilwoman L. Dale Temple   | aye |
| Councilwoman Doris T. White   | aye |

## **ADJOURNMENT**

With no further business to come before City Council, Mayor Person adjourned the meeting.

---

Mary L. Person, Mayor

---

Tessie S. Wilkins, City Clerk