

MINUTES
EMPORIA CITY COUNCIL
CITY OF EMPORIA MUNICIPAL BUILDING
September 7, 2010

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 September 7, 2010, at 7:30 p.m. in the Council Chambers of the Municipal Building, located at 201 South Main Street, Emporia, Virginia. Mayor Samuel W. Adams, III presided over the meeting with Reverend Bishop Lowery, offering the invocation.

ROLL CALL

The following City Council members were present:

Councilman John R. White
Councilman F. Woodrow Harris
Councilman James C. Saunders
Councilwoman Doris T. White
Councilwoman Carolyn S. Carey
Councilman Edward V. Lankford, IV
Councilwoman L. Dale Temple

Others present: Samuel W. Adams, III, Mayor
C. Butler Barrett, City Attorney
Brian S. Thrower, City Manger
Steve B. Hall, Assistant City Manager
Tessie S. Wilkins, City Clerk
Ken Ryals, Emergency Services Director
Bernard Richardson, Chief of Police
Joyce E. Prince, Commissioner of the Revenue
Royal Jones, Public Works Director

MINUTES APPROVAL

Councilman White moved to approve the minutes from the Tuesday, September 7, 2010 public hearing and regular meeting, as presented, seconded by Councilman Saunders, which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

AGENDA APPROVAL

Mayor Adams reported the addition of **Item 10-76 Partial Refund of 2010 City Business License Hillbilly LLC T/A Cigs.**

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

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

NEW BUSINESS

10-71. *Farmers' Market – Appropriation Ordinance*

Mr. Thrower reported that the City had received proceeds in the amount of \$102,000.00 from the sale of the old Farmers' Market property. He also reported that these funds need to be utilized for expenses related to the construction of the new Farmers' Market. He further reported that in order for the City to utilize these funds for this purpose, Council will need to appropriate these funds into the current operating budget.

He recommended Council to adopt the Ordinance to appropriate the funds.

Councilwoman Temple made a motion to adopt **Ordinance No. 10-36** appropriating The Sum of \$102,000.00 In Proceeds from the Sale of Property for the Construction of a Farmers' Market, seconded by Councilwoman White, which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

10-72. *Drug Seizure Fund – Appropriation Ordinance*

Mr. Thrower reported the money that was seized by the City of Emporia Police Department was determined by a court order to have been used in drug transactions. He also reported that before spending these funds, they must first be appropriated into the General Fund Operating Budget for the current year.

Mr. Thrower stated that the City of Emporia Police Department wishes to use the \$26,687 in seized funds for the purchase of four mobile data terminals (\$17,324), two computer mounts (\$2,563), and four mobile software packages (\$6,800).

He recommended Council to adopt the Ordinance to appropriate the funds.

Councilman Lankford made a motion to adopt **Ordinance No. 10-37** appropriating The Sum of \$26,687.00 In Drug Seizure Funds, seconded by Councilman Saunders, which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

Mayor Adams inquired if the computer was working now. Chief Richardson stated that all the computers are being installed now. Mayor Adams inquired about the installation time for computers. Chief Richardson reported that the installation time should be completed within sixty days.

10-73. VDEM Interoperability Grant - Appropriation Ordinance and Resolution

Mr. Thrower stated that the City of Emporia applied earlier this year for grant funding aimed at addressing federal regulations pertaining to emergency services communications interoperability. He also stated that he received a correspondence on Monday, August 23, 2010 from the Virginia Department of Emergency Management (VDEM) detailing a Federal Grant Allocation in the amount of \$282,300 for the “Emporia Interoperability Project.” He further stated that the 2010 State Homeland (DHS) did not require a match. He reported that the funding will be utilized to upgrade radio and communications equipment in order to adhere to federal interoperability mandates. He also reported that the Emporia Police Department, Emporia Volunteer Fire Department, and Greensville Volunteer Rescue Squad should all benefit from equipment upgrades.

He recommended Council to adopt the Ordinance to appropriate the funds and to adopt the Resolution authorizing the City Manager to execute documents on behalf of the City of Emporia for the purpose of obtaining federal financial assistance provided by the DHS and sub-granted through the State of Virginia.

Mr. Thrower reported that Ken Ryals, Emergency Services Director, and Steven Hall helped to get this VDEM Interoperability grant.

Councilwoman Temple made a motion to adopt **Ordinance No. 10-38** appropriating The Sum of \$282,300.00 In Grant Funds from the United States Department of Homeland Security for the 2010 State Homeland Security Program Grant for the Emporia Interoperability Project and **Resolution No. 10-13** authorizing the City Manager to execute all necessary documents, seconded by Councilman Lankford, which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

Councilman Saunders inquired on how the Federal government checks these grants to make sure they are used appropriately. Mr. Hall stated that there is data based on-line that states what City can and can not purchase. Mr. Ryals reported that the City has to complete a follow-up report every six months and then twelve months afterward the City will have to make a report showing how all money was expended.

10-74. Internet Sweepstakes Café’s – Request to Refer to Planning Commission

Mr. Hall reported that the City had received numerous inquiries and zoning compliance applications for “internet sweepstakes café’s” over the past year. He also reported that originally the internet sweepstakes café’s were approved as general retail/commercial use due to the fact they are not specifically mentioned in the City’s Zoning Code. He further reported that due to the recent proliferation of the internet sweepstakes café’s in the City and the action of the North Carolina General Assembly to ban such venues, revisiting the zoning ordinance is necessary.

Mr. Hall stated that the owners and operators of these establishments are acting under the premises that the “sweepstakes games” do not award prizes from server-based prize pools, as casino-style online games does. He also stated that cash prizes are paid to winners based on predetermined sweepstakes rules similar to those that govern many retail promotional campaigns conducted by companies such as McDonald’s.

Mr. Hall reported that in a recent advisory opinion, Attorney General, Ken Cuccinelli’s, conclusion stated, “No illegal gambling occurs when the opportunity to win a prize is offered both with a purchase and without the requirement of a purchase because the element of consideration is missing.”

Mr. Hall stated that the main issue surrounding the internet sweepstakes café’s uses is the difficulty in documenting gross receipts for tax purposes. He also stated that other issues may include the perceived City support of a gambling establishment, and the abuse by local residents in terms of lost income and the creation of a haven for criminal activity.

He recommended Council to refer the internet sweepstakes café’s item to the Planning Commission for a potential update to the City Zoning Ordinance. He also recommended establishing definitions and seeking guidance on where to allow these uses. He further recommended not to permitting the uses in the DT – Downtown district and by conditional use permit only in the C-2 – Commercial District. He advised Council that if internet sweepstakes café’s establishments were permitted only by conditional use permit, Council would be required to consider each application separately during Council meetings.

Councilman Lankford made a motion to refer Internet Sweepstakes Café’s to the Planning Commission for a potential update to the City Zoning Ordinance and to establish

definitions and seek guidance on where to allow Internet Sweepstakes Café's uses and not to permit the uses in the DT – Downtown district and by conditional use permit only in the C-2 – Commercial District, and if establishments were permitted only by conditional use permit Council would be required to consider each application separately during Council Meeting, seconded by Councilman White, which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

Councilman Harris stated that it would be interesting to see the particular that the Planning Commission suggests for the Internet Sweepstakes Café's. He also stated that the Attorney General opinion was interesting but he can not see from reading that opinion how it is that much different from Atlantic City and Vegas do with slot machines because they have to publicize what percent they are going to give back before somebody sit down to play. He further stated that at minimum, he agrees with the assistant Manager suggesting. He stated that with the flush out of businesses like this from North Carolina because of the change in their laws we certainly don't want to be overrun with Internet Sweepstakes Café's especially in Downtown district.

Mayor Adams reported that he counted six internet sweepstakes café's within the City now.

10-75. ERHA Updates

Mr. Hall reported that the ERHA update is for Council information only. He also reported at the special meeting held on August 19, 2010, the Emporia Redevelopment and Housing Authority (ERHA) voted to approve funding for a drainage improvement project extending the length of the north side of Zion Boulevard. He further reported that the project will consist of "shoulder and ditch" work. He stated that the ERHA authorized Jeff Robinson and Associates to complete the surveying and engineering for the project. He also stated that the City Public Utilities Director, Linwood Pope, with coordinated efforts of the City Staff performed "spot check" along the utilities on the north side of the street last week.

Mr. Hall stated that upon completion of the surveying and engineering, the ERHA will release the project to "open-bid" and will solicit proposals from private contractors to complete the improvements. He also stated that the project would be awarded to the lowest responsible bidder that can complete the work in a timely manner. He further stated that it is with hope that the project be fully complete by the end of October.

Mr. Hall reported that the ERHA has begun to accept applications for the second phase of funding available through its Home Repair Program. He also reported that applications are available in the City Municipal Building and will be accepted through September 20, 2010. He further reported that the criteria for receiving an award would include; proof of home ownership, proof of low-to-moderate income status and submittal of two estimates for requested home improvement(s). He stated that the ERHA would review applications at its regular meeting on October 13, 2010. He also stated that a flyer is available in the City office for distribution.

Mr. Hall reported that the ERHA has also included a line item in its FY10-11 budget for "Emergency Housing." He also reported that the funds would be utilized to assist residents of the City with temporary housing. He further reported that the framework for the use of those funds was discussed and would be formally acted upon at the October 13, 2010 meeting.

Mayor Adams thanks Ms. Marva Dunn and Councilwoman Carey for there works on committee.

There was no discussion regarding this item.

10-76. Partial Refund of 2010 City Business License Hillbilly LLC T/A Cigs

Mrs. Prince reported to Council that Hillbilly LLC T/A Cigs business ceased operation in the City as of June 1, 2010, and they requested a refund for the portion of the tax year that they will not be in operation. She also reported that a written request was normal procedure for a refund of business license.

Mrs. Prince reported due to the above information, it is her request that the refund be issued in the amount of \$1,593.48 which is based on the total license tax paid for twelve months.

Councilman Harris moved to approve that the one thousand five hundred ninety-three dollars and forty-eight cents (1,593.48) to be refunded to Hillbilly LLC T/A Cigs as requested, seconded by Councilwoman Carey which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

PUBLIC COMMENT

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

Marva Dunn, 505-D Washington St, addressed Council about the vicious dogs in the City that attacked Mr. Williams. She thought that the dogs no longer existed but to her understanding the dogs are still living.

Mayor Adams stated the Judge has to determine if the dogs are vicious according to the state law and that the case has not yet gone to Court.

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

*****Closed Session*****

Councilman Harris move that Closed Session be entered for the purpose of discussing Virginia Code **Virginia Code §2.23711(A) (3) Discussion of the disposition of publicly held real property, and (A) (1) Personnel Matters** . Councilman Saunders seconded the motion, which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

*****Regular Session*****

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

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

Councilman Harris made the motion that any employees who were previously given the retirement incentive of the City paying the employee only portion of health insurance until age 65 and then subsequently returned to City employment be therefore offered that same incentive, provided those employees retire by the date of December 31, 2010; the motion was seconded by Councilman White.

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

Councilman Harris made the motion that any employees with at least forty years of City service by the date of June 30, 2011 be thereafter offered the retirement incentive of the City paying the employee only portion of health insurance until age 65; the motion was seconded by Councilman Saunders.

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye

Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

CERTIFICATION

Councilman Saunders moved to certify the following:

1. only public business matters 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.

Councilman Lankford seconded the motion, which passed as follows:

Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Carolyn S. Carey	aye
Councilman Edward V. Lankford, IV	aye
Councilwoman L. Dale Temple	aye

ADJOURNMENT

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

Samuel W. Adams, III, Mayor

Tessie S. Wilkins, City Clerk