

WAYNESBORO, VIRGINIA

CITY COUNCIL BUSINESS MEETING MINUTES



Council for the City of Waynesboro, Virginia held a Regular Business Meeting on Monday, February 10, 2020 at 7:00 p.m. in the Council Chambers of the Charles T. Yancey Municipal Building, 503 West Main Street, Waynesboro, Virginia, with Mayor Short presiding and calling the meeting to order:

- PRESENT: Council Members: Terry Short, Jr., Mayor
Bruce Allen, Councilman
Elzena Anderson, Councilwoman
Sam Hostetter, Councilman
- City Staff: Mike Hamp, City Manager
Jim Shaw, Deputy City Manager
Julia Bortle, Clerk of Council
Michael Wilhelm, Police Chief
Cameron McCormick, Finance Director
Luke Juday, Planning Director
- Counsel: Mark Bowman, Esq., Litten & Sipe LLC
- ABSENT: Bobby Henderson, Vice Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA:

Mayor Short opened the meeting, and Councilwoman Anderson lead everyone in the Pledge of Allegiance to the Flag of the United States of America.

ADOPTION OF BUSINESS MEETING AGENDA:

Councilman Allen moved to amend the Business Meeting Agenda to include a discussion of the upcoming Council Ward A vacancy. **Having been seconded and with no objection, the Business Meeting Agenda was amended 4:0:**

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

Councilman Hostetter moved to adopt the Business Meeting Agenda as amended. Having been seconded and with no objections, **the amended Business Meeting Agenda was adopted 4:0:**

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

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ADOPTION OF CONSENT AGENDA:

Councilman Allen moved to adopt the Consent Agenda as presented. **Having been seconded and with no objection, the Consent Agenda was adopted 4:0:**

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

- a. Council Meeting Minutes: Consider approving the minutes from the January 27, 2020 Regular Business Meeting and the January 29, 2020 Budget Work Session.
- b. Vacate Portion of Chicurel Lane: Second consideration/adoption of an ordinance approving a request by Waynesboro Hotel, LLC to dissolve lot lines and vacate a cul-de-sac right-of-way on Chicurel Lane, Waynesboro, Virginia. (2020-07)
- c. Economic Development – Technology Zone: Second consideration/adoption of an ordinance creating a Technology Zone (TZ) in the City of Waynesboro. (2020-08)
- d. Commissioner of the Revenue - Security Window: Second consideration/adoption of an ordinance appropriating \$6,700 to the General Fund, to replenish the City Manager’s Contingency Account for installation of a security window in the Commissioner of the Revenue’s Office. (2020-09)
- e. Waynesboro First Aid Crew - \$4 for Life Funds: Second consideration/adoption of an ordinance appropriating \$20,801 \$4 for Life Funds to the General Fund for pass-through to the Waynesboro First Aid Crew. (2020-10)
- f. School – Fund Balance Transfer: Second consideration/adoption of an ordinance appropriating a portion of Assigned Fund Balance, in the amount of \$229,619, to the Schools, for the fiscal year ending June 30, 2020. (2020-11)
- g. Application – Fly Fishing Festival: Consider approving an application from Destination Downtown Waynesboro to serve alcoholic beverages (in accordance with all applicable ABC regulations) in Constitution Park on April 18 and 19, 2020 in association with the South River Fly Fishing Expo.

COUNCIL WARD A VACANCY ANNOUNCEMENT:

A vacancy notice was read and distributed to Council and will be made available for immediate publishing to the public. Interested candidates who reside in Ward A were encouraged to apply for the interim position with a term ending June 30, 2020.

MATTERS FROM COUNCIL MEMBERS.

Councilwoman Anderson informed every one of the upcoming free community event, “Unity in the Community”, on Saturday, February 29 from 11:00 a.m. to 2:00 p.m. at the Rosenwald Community Center, sponsored by the Waynesboro NAACP and the City of Waynesboro.

ORDINANCE – CODE AMENDMENT - UTILITY BILLING ADJUSTMENT:

The Deputy City Manager reviewed a briefing that Council received at the January 27, 2020 Council Meeting of the proposed ordinance codifying policies for customer water leak billing disputes and/or adjustments. Councilman Allen moved to introduce an ordinance activating a new Section 1 of Article I, Chapter 86, of the City Code of Waynesboro relating to the adjustment of utility invoices. Having

been seconded and with no objections, the ordinance will be considered again at the February 24, 2020 Regular Business Meeting:

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

KM HOTELS, LLC PERFORMANCE INCENTIVE AGREEMENT AMENDMENT:

In November 2016, the City entered into a performance agreement with KM Hotels to facilitate the construction of a public street at Chicurel Lane to foster commercial development in the vicinity of Windigrove Drive. In June, 2019, Council authorized the City Manager to execute an amendment to the performance agreement extending a hotel completion date from January 1, 2020 to January 1, 2022. It was concluded that the project could be simplified regarding the road construction, requiring an amendment to the existing performance agreement.

Councilman Hostetter moved to adopt a resolution endorsing an amendment to the Economic Development Performance Agreement with KM Hotels, LLC to fund construction of a public street in support of the development of a hotel and other businesses on Chicurel Lane. Having been seconded and with no objections, the resolution was adopted 4:0:

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

**RESOLUTION ^(R20-04)
AUTHORIZING EXECUTION BY THE CITY
OF AN AMENDED ECONOMIC DEVELOPMENT PERFORMANCE
INCENTIVE AGREEMENT BETWEEN THE CITY, KM HOTELS, LLC,
AND THE ECONOMIC DEVELOPMENT AUTHORITY OF WAYNESBORO**

WHEREAS, in November 2016, the City entered into a Performance Agreement with KM Hotels LLC to facilitate construction of Chicurel Lane to the standards of a public street to provide adequate access for development of several parcels and construction of a hotel off Windigrove Drive;

WHEREAS, in the Performance Agreement, KM Hotels agreed to provide funding for the entire road construction with the City reimbursing KM Hotels via future tax revenues for the completed hotel project to a maximum of \$350,000, and the City staff was to manage the road construction project including project procurement and processing payments to contractors;

WHEREAS, in June 2019 a motion was passed by the Council to authorize the City Manager to execute an amendment to the 2016 Performance Agreement to alter the date by which a certificate of occupancy must be issued for rebates to be applied from January 1, 2020 to January 1, 2022;

WHEREAS, in November 2019 City staff met with the design engineers for the Chicurel Lane improvements and KM Hotels representatives responsible for the hotel site plan. It was determined that this development could not be viewed as two separate projects since the designs are interconnected, especially with the drainage systems. In addition, the potential for delays and cost overruns was significant if two separate contractors are selected to construct the road and complete the site improvements on a similar timeline. For these reasons, the City proposed to KM Hotels modifications to Section 3 and Section 4 of the Performance Agreement in an effort to expedite road construction;

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WHEREAS, the modifications require the parties to enter into an Amended Economic Development Performance and Incentive Agreement;

WHEREAS, at its regularly scheduled meeting on January 10, 2020, the EDA unanimously approved the Amended Economic Development Performance and Incentive Agreement as generally presented;

WHEREAS, the City and KM Hotels, LLC, and the Economic Development Authority of Waynesboro desire to enter the Amended Economic Development Performance and Incentive Agreement, which is attached as Exhibit 1 hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAYNESBORO, VIRGINIA AS FOLLOWS:

1. The City Manager is hereby authorized to enter into an Amended Economic Development Performance and Incentive Agreement between the City, KM Hotels, LLC, and the Economic Development Authority of Waynesboro in substantially such form as attached hereto as Exhibit 1; and

2. The City Manager is hereby authorized to take any other actions that are reasonable and necessary to effectuate the terms of the Agreement.

Resolved this 10th day of February 2020.

ATTEST: _____
Clerk, City Council
City of Waynesboro, Virginia

Mayor, City Council
City of Waynesboro, Virginia

AMENDMENT TO PERFORMANCE AGREEMENT

This AMENDMENT is made and entered this ___ day of , 2020, by and between the **CITY OF WAYNESBORO, VIRGINIA**, a municipal corporation (the “**CITY**”), **KM HOTELS, LLC**, a Virginia Limited Liability Company (the “**COMPANY**”), and the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF WAYNESBORO, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “**EDA**”).

Whereas, the City, the Company, and the EDA (collectively, the “Parties”) entered into that certain Performance Agreement dated November 14, 2016 (the “Performance Agreement”) relating to the development of 101, 104, 105, 108, and 109 Chicurel Lane within the City of Waynesboro.

Whereas, pursuant to the Performance Agreement, the City agreed to construct, and the Company agreed to pay for, certain public road improvements.

Whereas, the Parties desire to amend the Performance Agreement to provide that the Company will instead construct the public road improvements.

Now, Therefore, the Parties agree as follows:

I. Section 3 and Section 4 of the Performance Agreement are hereby amended to state:

3. City's Obligations.

A. The City agrees to assist, as described herein, with the coordination and construction of a public road ("Chicurel Lane") as shown and described as the area labeled "Chicurel Lane" on that certain plat dated October 22, 2019, made by Daniel E. Hansen, and entitled "Final Plat Chicurel Subdivision", a copy of which plat is attached hereto as Exhibit A (the "Plat").

B. The City will engage a consulting engineer (the "Engineer") to produce design specifications and construction documents for Chicurel Lane, to answer questions, and to perform inspections of the improvements constructed upon Chicurel Lane, and other related tasks, all at the direction of the City.

C. Invoices from the Engineer will be directed to the City for payment.

D. Upon completion of the construction of Chicurel Lane to the standards and specifications of the City, and in accordance with the Performance Agreement, as amended, the City will accept Chicurel Lane.

4. Company's Obligations.

A. The Company agrees to construct the Hotel as quickly as commercially reasonable.

B. The Company agrees to construct Chicurel Lane to the standards and specifications of the City, in consultation with the Engineer within one year from the date this Amendment is executed by the City.

C. The Company will acquire all easements necessary to construct Chicurel Lane and dedicate the same to the City.

D. The Company will provide to the City fee simple title to Chicurel Lane and the improvements thereon, free and clear of any and all encumbrances, and the Company shall comply with the requirements set forth in City Code Section 74-114 relating to said improvements.

E. Prior to the approval of the Plat by the subdivision agent, the Company will provide to the City an appropriate performance guarantee as set forth in City Code Section 74-111(2), in an amount sufficient to ensure the completion of the construction of Chicurel Lane in accordance with the City's standards and specifications.

F. The Company will reimburse the City for its payments to the Engineer for work performed as described hereunder, and such other actual and direct costs as may be reasonably necessary to complete the inspection and acceptance of Chicurel Lane. Payments shall be made within 30 days of Company's receipt of such invoice from the City.

G. The Company will coordinate with the City and the Engineer with respect to the design and installation of utilities benefitting the Hotel. Easements for utilities within Chicurel Lane, prior to the conveyance thereof to the City, shall be granted only with the written permission of the City.

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H. The Company will apply for vacation of the lot lines and easements in substantially the same form as shown on the Plat, and the Company's obligation to construct the Hotel and Chicurel Lane shall be contingent upon approval of such vacations by the City.

I. Nothing in this Performance Agreement shall be construed in any way to eliminate or abridge the Company's obligation to comply with all of the laws and regulations of the Commonwealth of Virginia and the City of Waynesboro, including without limitation those relating to stormwater and erosion and sediment control.

II. All other provisions of the Performance Agreement shall continue in full force and effect and are hereby reaffirmed by the parties.

IN WITNESS WHEREOF, the Economic Development Authority of the City of Waynesboro, Virginia, KM Hotels, LLC, and the City of Waynesboro, Virginia have caused this Amendment to Performance Agreement to be executed in their respective names, all as of the date first above written.

APPLICATION – BLUE RIDGE SOAP BOX DERBY:

Councilwoman Anderson moved to approve an application from Blue Ridge Classic Soap Box Derby Organization, to close a portion of Main Street and adjacent streets, place necessary barricading, and for amplified sound on Saturday, June 13, 2020 from 5:00 a.m. until 5:00 p.m., for the purpose of holding the annual Blue Ridge Soap Box Derby. Having been seconded and with no objections, the application was approved 4:0:

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

DEPARTMENTAL UPDATE FROM DIRECTOR OF PLANNING:

The Planning Director provided an update of the Planning Department's role, purpose, mission statement, and accomplishments. He highlighted the system of considering legal rights, a fair and transparent process for planning, and the need for a vision of what is to be achieved. The Planning Department's core documents include the Comprehensive Plan, the Transportation Plan, and the Land Use Map that help guide decisions. Accomplishments include the 2018 Comprehensive Plan, the 2018 Transportation Plan, the major revision of the Subdivision Ordinance, conducting neighborhood planning, currently securing a consultant for the Port Republic Road area, and working on a land use plan for the Basic City area to address controversial issues.

ORDINANCE – ANIMAL SERVICE CENTER:

This ordinance is the adoption of the Shenandoah Valley Animal Services Center Operating Budget for fiscal year 2020. The \$440,437 is shared among the three municipalities of Staunton, Augusta County and Waynesboro, including some grant funds. Councilman Allen moved to introduce an ordinance appropriating \$440,437 of funds for the Shenandoah Valley Animal Service Center Operating Budget. Having been seconded and with no objections, the ordinance will be considered again at the February 24, 2020 Regular Business Meeting.

ORDINANCE – PUBLIC WORKS – CRACK SEALER:

Councilman Hostetter moved to introduce an ordinance appropriating a portion of net position, in the amount of \$14,839, to the Equipment Fund, to purchase a crack sealer for the Streets Department. Having been seconded and with no objections, the ordinance will be considered again at the February 24, 2020 Regular Business Meeting.

REAPPOINTMENTS TO WAYNESBORO REDEVELOPMENT AND HOUSING AUTHORITY BOARD:

Councilman Allen moved to retroactively reappoint Margaret VanHuss, Thomas Reider, and Mary Scott Miller to the Redevelopment and Housing Authority Board, each for a four-year term ending August 31, 2023. Having been seconded and with no objections, the reappointments were approved 4:0:

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

COMMUNICATION, CORRESPONDENCE, AND CALENDAR:

The City Manager noted the upcoming budget work sessions that are scheduled for Wednesday, February 19, 2020 and Wednesday, April 4, 2020 both beginning at 6:00 p.m.

CITIZEN COMMENT PERIOD:

Herman Wells, Waynesboro: suggested Council present a consolidated answer to issues brought before them from the public and about the renaming of the Florence Avenue Bridge. He thanked Councilwoman Anderson for her service to the City.

ADJOURN:

With no further business to discuss, Councilman Hostetter moved to adjourn the meeting. Having been seconded and with no objection, the meeting was adjourned at 7:48 p.m.

Mayor Short	Aye	Councilwoman Anderson	Aye
Vice Mayor Henderson	Absent	Councilman Hostetter	Aye
Councilman Allen	Aye		

Julia Bortle, MMC, Clerk of Council

Terry R. Short, Jr., Mayor