

City Council Meeting

MINUTES

Monday, February 25, 2019, 7:30 PM

Council Chambers, City Hall, 114 North Broad Street, Salem, Virginia 24153

1. Call to Order

A regular meeting of the Council of the City of Salem, Virginia, was called to order at 7:30 p.m., there being present all the members to wit: Byron Randolph Foley, Mayor, Jane W. Johnson, Vice-Mayor, Council members: William D. Jones, James A. Martin, and John E. Saunders; along with James E. Taliaferro, II, Interim City Manager and Clerk of Council; Rosemarie B. Jordan, Director of Finance; Melinda J. Payne, Director of Economic Development; Mike Stevens, Communications Director; Charles E. VanAllman, Jr., Community Development Director; and Stephen M. Yost, City Attorney.

2. Pledge of Allegiance

3. Consent Agenda

A. Minutes

Consider acceptance of the minutes from the February 11, 2019, work session and regular meeting.

Accepted as presented

B. Financial Report

Consider the acceptance of the Statement of Revenues and Expenditures for the seven months ending January 2019.

Received

4. Old Business

A. Salem Historic Registry

Consider an ordinance on second reading establishing the Salem Historic Registry.

Jane Johnson motioned to adopt the ordinance on second reading establishing the Salem Historic Registry. William Jones seconded the motion.

Ayes: Foley, Johnson, Jones, Martin, Saunders

5. New Business

A. Special Exception Permit

Hold public hearing to consider the revocation of a Special Exception Permit issued November 13, 2017, to William E. Lee, property owner, and Green GearHeads LLC, lessee, to allow scrap and salvage services on the property located at 844 Union Street (Tax Map #200-2-1). (Continued from the January 28, 2019, meeting. Recommend approval; see Page 1 Planning Commission minutes.) **STAFF REPORT**

Mayor Foley noted this item was continued from the January 28, 2019, meeting and the Planning Commission had recommended approval of the request.

Staff noted the following: the subject property consists of a single parcel located off Union Street, between the Norfolk Southern Main Lines and the Virginian Line. The property is visible from the entrance to the Moyer Sports Complex, behind Oak Hall Cap and Gown. It is approximately 1.392 acres and is occupied by a 24,000 sq. ft. industrial building. This request is for the revocation of the Special Exception Permit issued November 13, 2017, to allow Scrap and Salvage Services. The original permit was granted with the following conditions:

1. There shall be no public safety issues with the flow of traffic in and out of the facility. A plan shall be submitted for review illustrating the flow of vehicles and shall be subject to approval by the city;
2. No party shall utilize Union Street or 7th Street for stopping, turning, or parking of motor vehicles in relation to the business conducted on the subject property;
3. A landscaped buffer yard Type B shall be planted per 106-402.3 around all parking areas;
4. The west side of the building shall not be utilized for loading, unloading or storage purposes;
5. Signage shall be installed instructing customers that no drop offs will be allowed at any time after hours. Cameras shall be installed and maintained for monitoring prohibited drop-offs;
6. All traffic access shall be via Union and 4th Street;
7. Materials to be delivered for scrap and salvage, or recycling, shall be limited to paper, cardboard, plastics, and metal, however no automotive or other transportation vehicle salvage shall be allowed;
8. All processing shall be conducted inside the existing building. Loading and unloading of materials may occur from the docks on the south and east sides of the building. No outdoor storage shall be allowed except for empty containers that are awaiting placement at customer locations. All such containers shall be as shown on the attached depiction submitted by the petitioner with the application. All scrap and salvage, or recycling, materials must be stored inside the building at the conclusion of the business day; and
9. The petitioner shall obtain and maintain all required local, state, and federal

permits, including any required Department of Environmental Quality permits, and shall comply with all regulations and requirements of the Department of Environmental Quality, or any other governing agency or department.

Staff also noted the following timeline associated with this request:

Green Gearheads was notified prior to the issuance of the special exception permit that per the building code, occupancy of the building would be considered a change of use and would require the submittal of architectural plans and possible renovation before a certificate of occupancy could be issued.

At the previous location of 1115 Indiana Street, the company had received a warning letter from DEQ in 2017 regarding the possible violation of the State Water Control Law and Regulations. On February 15, 2018, DEQ had issued a second warning letter for that location. Green Gearheads filed an incomplete registration for 844 Union Street on November 13, 2017, and has yet to complete the registration process.

As of April 4, 2018, Green Gearheads was in violation of the Special Exception Permit. Condition #3, landscaping, had not been planted; #4, the west entrance was being used for loading and unloading; #8, piles of material were being stored outside; and #9, the appropriate permits (building, certificate of occupancy, DEQ, etc.) had not been obtained (see Exhibit 1).

In April 2018, the company informed the city that they were closing the business. On April 18, 2018, Troy Loving, Building Official, received an email stating that they had stopped taking material except for two small cardboard customers on a weekly pick up basis. On April 24, 2018, Mr. Loving received an email from Green Gearheads stating that they had contracted an architect to prepare the drawings for occupancy.

On November 6, 2018, an interdepartmental inspection team, Deputy Fire Marshal, Building Official, Building Inspector, and Zoning Administrator inspected the premises. Numerous violations were discovered. Green Gearheads stated that they were not taking in anymore material and would be closing the business. On November 9, a notice of violation was mailed giving a November 30, 2018, deadline for correction (see attached violation notice). On November 28, a one-week extension request from Green Gearheads was received and on November 30, a subsequent inspection was performed. As progress to remove the material and close the business had been made, the city extended the deadline until December 7, 2018.

On December 7, another inspection was performed. Additional progress had been made, however, much of the recyclable material remained in addition to new

material being present. The deadline was extended to December 31, 2018. Periodic updates have been received from the company, and the removal of recyclable material has been progressing, albeit, slowly.

On December 28, Green Gearheads emailed requesting an extension to vacate the property. The deadline of December 31, 2018, was extended to January 2, 2019. On January 2, 2019, the Fire Marshal's office submitted an update to DEQ. Green Gearheads emailed requesting another extension. The Building Official and Building Inspector performed another inspection (see Exhibit 3). The majority of the material had been removed, and the deadline was extended to midnight, January 14, 2019. Weekly updates have been received from the company and progress continues. On February 5, 2019 an inspection was made and the premises appears to be 99% vacated (see Exhibit 4).

Ben Tripp appeared before the Council noting staff is requesting the Special Exception Permit for scrap and salvage services be revoked as the lessee, Green Gearheads LLC, is in violation of several of the conditions which were part of the original permit. Staff has worked with the lessee since last April to rectify the situation. The business is now closed, and the building is mostly cleaned up. So staff just wants to make certain that any similar business in the future would have to go through the same approval process.

Council thanked staff members who were involved in the process and for staying on top of this to correct the situation.

Mayor Foley noted that this is a public hearing and asked if anyone was present who would like to speak regarding this matter. There was no response and the public hearing was closed.

William Jones motioned to revoke a Special Exception Permit issued November 13, 2017, to William E. Lee, property owner, and Green Gearheads LLC, lessee, to allow scrap and salvage services on the property located at 844 Union Street (Tax Map #200-2-1). Jane Johnson seconded the motion.

Ayes: Foley, Johnson, Jones, Martin, Saunders

B. Twin Oaks Car Wash

Consider setting bond for physical improvements and erosion and sediment control and landscaping for Twin Oaks Car Wash to be located at 229 Apperson Drive.

Audit - Finance Committee

Mr. Jones noted the Audit Finance Committee met earlier this evening to discuss this request. The Committee reviewed the estimate for erosion and sediment

control, landscaping, and physical improvements for the Twin Oaks Carwash project to be located at 229 Apperson Drive. The Committee concurs with the City Engineer's office recommendation that bond be set in the amount of \$11,429 and a time frame for completion set at twelve (12) months.

William Jones motioned to approve the bond for erosion and sediment control, landscaping, and physical improvements for the Twin Oaks Carwash project to be located at 229 Apperson Drive. James Martin seconded the motion.

Ayes: Foley, Johnson, Jones, Martin, Saunders

6. Closed Session

A. Closed Session

Hold a closed session in accordance with the provisions of Section 2.2-3711A(3), *A(6) and A(8)* of the 1950 Code of Virginia, as amended, for a discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; *for discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected; and for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.* **Supplemental Item**

Mr. Yost discussed the provisions of the State Code pertaining to the items that Council would be discussing in closed session.

Vice Mayor Johnson motioned to move to closed session at 7:39 p.m. in accordance with the provisions of Section 2.2-3711A(3), Section 2.2-3711A(8), Section 2.2-3711A(7), and Section 2.2-3711A(6) of the 1950 Code of Virginia, as amended, for a discussion or consideration of disposition and acquisition of publicly held real property where discussion in open session would adversely affect the bargaining position or negotiating strategy of the City; for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel; for consultation with legal counsel pertaining to probable litigation where such consultation in open meeting would adversely affect the negotiating or litigating position of the public body; and for a discussion or consideration of the potential investment of public funds where bargaining is is involved, and where if made public initially, the financial interest of the City would be adversely affected. James Martin seconded the motion.

Jane Johnson motioned to reconvene at 8:49 p.m. and that in accordance with Section 2.2-3712D of the Code of Virginia, 1950 as amended to date, Council hereby certifies that in Closed Session only items lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such items identified in the motion by which the Closed Session was convened were heard, discussed, or considered by the Council. William Jones seconded the motion.

Ayes: Foley, Johnson, Jones, Martin, Saunders

7. Adjournment

The meeting was adjourned at 8:50 p.m.