

NORFOLK, VIRGINIA

MEETING OF COUNCIL

TUESDAY, AUGUST 29, 2023

Mayor Kenneth Cooper Alexander, called the meeting to order at 3:30 p.m., with the following members present: Mrs. Courtney R. Doyle, Mrs. Mamie B. Johnson, Mrs. Andria P. McClellan, Mr. John E. Paige, Ms. Danica J. Royster, Mr. Thomas R. Smigiel Jr., and Vice Mayor Martin A. Thomas Jr.

AGENDA

Pop-Up Presentation

Ms. Stephanie Iles, Director of Elections and General Registrar, reported as follows:

The current Ingleside precinct location, Ingleside Recreation Center, has now closed. The Electoral Board recommends relocating the precinct to the Ingleside Community Gymnasium, which is next door at 960 Ingleside Road.

Ingleside currently has 2,295 registered voters, of which 2,126 are active. In the 2020 general election, 563 ballots were cast. The new location is ADA compliant and has adequate parking. They recommend adding handicapped signage at the new location.

Timelines & Notification

- Public Hearing and City Council vote is scheduled for August 29, 2023, Formal Session.
- Voter Information notices must be mailed to all registered voters who are impacted by the polling place change.
- This will impact elections beginning November 7, 2023.

Fiscal Year 2023 Audits

Presenter: Ms. Cheri Amoss, Principal, CliftonLarsenAllen

Ms. Amoss reported as follows:

Scope of Services

- Audit:
 - City of Norfolk
 - Norfolk Schools
 - Economic Development Authority
 - Employees' Retirement System
 - Single Audit
- Agreed Upon Procedures and Examinations as required by the Commonwealth of Virginia Auditor of Public Accounts (APA)

Auditing Standards

- *Generally Accepted Auditing Standards* as promulgated by the American Institute of Certified Public Accountants (AICPA)
- *Government Auditing Standards* as determined by the Government Accountability Office (GAO)
- Uniform Guidance
- APA Specifications

Auditor's Responsibility Under Auditing Standards

- Expressing an opinion about whether the financial statements prepared by management with your oversight are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America.
- Planning and performing the audit in accordance with auditing standards generally accepted in the United States of America to obtain reasonable, rather than absolute assurance about whether the financial statements as a whole are free of material misstatement.
- Considering the entity's internal control over financial reporting as a basis for designing our audit procedures, but not to provide any assurance on the effectiveness of the City's internal control over financial reporting.
- Communicating significant matters related to the financial statement audit that are, in our professional judgment, relevant to your responsibilities in overseeing the financial audit process. However, we are not required to design procedures specifically to identify such matters.
- Communicating matters required by law, regulation, agreement, or other requirements.
- Communicating to management and the Council in writing all significant deficiencies and material weaknesses in internal control identified in the audit and reporting to management all deficiencies noted during our audit that are of sufficient importance to merit management's attention.

Management Responsibilities

- Preparation and fair presentation of the financial statements and schedule of expenditures of federal awards in accordance with U.S. Generally Accepted Accounting Principles (GAAP).
- Selection and application of accounting principles.
- Recording all transactions in the financial statements
- Determining reasonableness of accounting estimates
- Compliance with laws and regulations, provisions of contracts and grant agreements, including compliance with federal statutes and grant awards.
- Design, implementation, and maintenance of effective internal control, including internal control over compliance.
- Design, implementation and maintenance of internal controls to prevent and detect fraud.
- Providing the auditors with access to all information requested that is relevant to the preparation and fair presentation of the financial statements and schedule of federal expenditures.

Audit Approach

- Risk Based Audit Approach
 - Entity Level
 - Account Level
- Significant Risks
 - Management override of controls (as required by auditing standards)
 - Revenue recognition
 - Implementation of Governmental Accounting Standards Board (GASB) Statement No. 96
- Communication
 - Formal, weekly status meetings

New Accounting Pronouncements

GASB Statement No. 91 – *Conduit Debt Obligations*

GASB Statement No. 94 – *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*

GASB Statement No. 96 – *Subscription-Based IT Arrangements*

New Auditing Standard

- Statements of Auditing Standards (SAS) 142 Audit Evidence
 - Explains what constitutes audit evidence
 - Assists the auditor in maintaining professional skepticism

Nighthawks Recap

Presenter: Mr. Ed Matthews, Assistant Director, Parks & Recreation

Mr. Matthews reported as follows:

Program Began: Friday, July 7

Locations: Huntersville Community Center, Norview Community Center, Young Terrace Norfolk Club, Fairlawn Recreation Center, East Ocean View Community and Senior Center, and the Southside Boys & Girls Club

Six Operational Weeks: Friday and Saturday, 9:00 p.m. to 12:00 a.m.

Mr. Matthews next presented a short video featuring the basketball program.

Also offered:

- Mobile Roller Skating
- Gaming, Gamer Bus
- Fitness Classes
- Paint Classes
- DJs
- Live Performance

Mr. Matthews reported on the average nightly attendance:

Huntersville: 81 participants

Norview: 50 participants

Young Terrace: 45

East Ocean View: 78

Southside Boys & Girls Club: 52

Total Average Participation rate: 60 participants per site with approximately 3,000 participants for this year's program.

Partners: Norfolk Police, Norfolk Sheriff's Department, Southside Boys & Girls Club, Norfolk Redevelopment & Housing Authority, and the Rec League.

Councilwoman Royster thanked staff for being creative with their outreach and expansion to other parts of the city. She added the program was executed well and is a creative program that keeps our youth engaged and safe during the summer.

Councilwoman Johnson thanked staff for expanding the program to more communities, the variety of activities, and for meeting the scholars where they are and providing transportation.

City Planning Update

Presenter: Ms. Paula Shea, Acting Planning Director

Ms. Shea reported as follows:

City Council Item Preview

Osamah Almakki

Conditional Use Permit for Short-Term Rental

Location

- 9553 21st Bay Street
 - Existing Conditions
 - 4-unit multifamily building
- Request
- CUP to operate as a Short-Term Rental

Nearby Short-Term Rentals – 500-foot Buffer

STR-Vacation: 2

STR-Homestay: 0

Pending STRs: 0

Nonregistered STRs: 0

Planning Commission Recommendation

- City Planning Commission, by a vote of 5-1, recommends approval.
 - One person spoke in opposition at public hearing and sent a letter of opposition

City Council Item Preview

Eric Ellmyer

Conditional Use Permit for Short-Term Rental - Renewal
Location

- 4046 E. Ocean View Avenue
- Existing Conditions
- 4-bedroom single family home
- Request
- CUP to operate as a Short-Term Rental

Nearby Short-Term Rentals – 500-foot Buffer

STR-Vacation: 3

STR-Homestay: 0

Pending STRs: 0

Nonregistered STRs: 0

Planning Commission Recommendation

- City Planning Commission, by a vote of 5-1, recommends approval.
 - East Ocean View Civic League did not indicate a position on the application. Did raise concerns which are addressed by recommended conditions.
 - One person spoke in opposition at public hearing and sent a letter of opposition.

City Council Item Preview

Zoning Text Amendment

- Zoning test amendment to allow restaurants without entertainment and closing by 5 p.m. to sell alcohol on premises by right (no CUP)
- Currently all restaurants that sell alcohol require a CUP
- City Planning Commission, by a vote of 6-1, recommends approval
 - Discussion on what was appropriate closing time – CPC settled on pre-dinner

City Council Item Preview

BH VA Norfolk Newtown, LLC

Rezoning and Conditional Use Permit
Location

- 6659 E. Virginia Beach Boulevard (west side of Newtown Road)
- Existing Conditions
- 12.4-acre site is currently developed as Smitty's Trailer Park
- Request
- Rezoning and CUP to develop 320 multi-family units and self-storage facility

Planning Commission Recommendation

- City Planning Commission, by a vote of 6-0, recommends approval.

City Council Item Preview

Community Power Group, LLC

CUPs for Production of Craft Beverages and Live Entertainment

Location

- 5104 Colley Avenue
- Proposal
- Expand the existing microbrewery and operate with modified entertainment

	Current	Proposed
Hours of operation for the sale of alcoholic beverages and for live entertainment	11:00 a.m. until 10:00 p.m. Monday through Thursday 11:00 a.m. until 12:00 midnight Friday and Saturday. 11:00 a.m. until 9:00 on Sunday	Same
Capacity	171 seats indoors 24 seats outdoors 248 total capacity	223 seats indoors 86 seats outdoors 349 total capacity
Entertainment	Live band Karaoke Comedian Poetry Reading	Live band Karaoke Comedian Poetry Reading Spoken Word Festival Markets

Planning Commission Recommendation

- City Planning Commission, by a vote of 7-0, recommends approval.
 - Planning commission added a condition to prohibit windows from being open when there is amplified music.
 - Six proponents (including applicant) and three opponents at CPC public hearing
 - Four letters of opposition at time of CPC public hearing

City Council Item Preview

Bayport Credit Union

CUP for Drive-through and Development Certificate

Location

- 2014 Granby Street
- Proposal
- Bank with drive through

Planning Commission Recommendation

- City Planning Commission, by a vote of 6-1, recommends approval.
 - There was discussion on the potential to reduce parking on the site and the impact of supporting drive-throughs in the PCO.

City Council Item Preview

The Hive

CUP for Smoking and Vaping

Location

- 4215 Granby Street
- Proposal
- Sale of smoking and vaping products, including CBD products

Planning Commission Recommendation

- City Planning Commission, by a vote of 6-1, recommends approval.
 - A Planning Commissioner did not feel this use was appropriate in this location.
 - Applicant sought relief from several conditions, but CPC did not move to modify any of the conditions.

Councilwoman McClellan expressed concern about the landscaping condition because the applicant does not own the property. She stated they should be allowed to do a planter box instead of having to remove asphalt and then planting, which is more expensive. Ms. Shea stated this would add some pervious material to a site where none exists currently. Councilman Smigiel suggested they allow them to start with a planter and give them time to accomplish the pervious condition. He suggested the applicant might qualify and apply for some type of grant.

Councilwoman McClellan stated that there is no law in Virginia against smoking and vaping products and Council's position is perhaps hindering the success of some of our smaller businesses. She stated it is unfair that some businesses are grandfathered and able to sell these products.

Councilman Smigiel stated that Council's position over the last year has been consistent against vaping products because they are harmful to the public. Councilwoman McClellan stated Council needs to clarify the direction we are going in, recognizing that selling alcohol, tobacco, and vaping products are not good for anyone. We need to send a clear message to these small businesses.

Ms. Shea stated that as part of the pre-application meeting process with the Planning Department, applicants with new business plans are informed about the position the City Planning Commission and City Council have taken on vaping products, that it is not supported. Councilwoman McClellan stated that if Council feels so strongly about vaping and its products that it should be included in their legislative package.

City Council Item Preview

JAMJ Properties, LLC

Conditional Use Permit for Short-Term Rental - Renewal

Location

- 7936 Thompson Road
- Existing Conditions
- 5-bedroom duplex (2-BR unit and 3-BR unit) on a flag lot
- Request
- CUP to operate as a Short-Term Rental

Nearby Short-Term Rentals – 500-foot Buffer

STR-Vacation: 2

STR-Homestay: 0

Pending STRs: 0

Nonregistered STRs: 0

Planning Commission Recommendation

- City Planning Commission, by a vote of 6-1, recommends approval.
 - Additionally, they voted 7-0 to modify the conditions to require a professional management company to manage the property for the duration of the CUP.

CLOSED SESSION

Motion for closed session was approved at **4:22 p.m.** for purposes which are set out in **Clauses 1,8, 8** of subsection (A) of Section 2.2-3711 of the Virginia Freedom of Information Act, as amended:

- (1) Discussion and consideration of prospective Board and Commission candidates.
- (8) Consultation with legal counsel concerning issues at the Hampton Roads Regional Jail.
- (8) Briefing with legal counsel concerning employee relations. position of the public body.

AYES: Doyle, Johnson, McClellan, Paige, Royster, Smigiel Jr., Thomas Jr., Alexander.

NO: None