



**CLARKSVILLE CITY COUNCIL  
REGULAR SESSION  
APRIL 4, 2013**

**MINUTES**

**PUBLIC COMMENTS**

Prior to the meeting, Karel Lee Biggs asked for support of amendments that would be proposed by Councilman Bill Summers (establishment of ethics commission) and Councilwoman Deanna McLaughlin (anonymous complaints) relative to the Ethics Code.

**CALL TO ORDER**

The regular session of the Clarksville City Council was called to order by Mayor Kim McMillan on Thursday, April 4, 2013, at 7:00 p.m. in City Council Chambers, 106 Public Square, Clarksville, Tennessee.

A prayer was offered by Councilman Wallace Redd; the Pledge of Allegiance was led by Councilman Joel Wallace.

**ATTENDANCE**

**PRESENT:** Nick Steward (1), Deanna McLaughlin (2), James Lewis, Mayor Pro Tem (3), Wallace Redd (4), Valerie Guzman (5), Marc Harris (6), Geno Grubbs (7), David Allen (8), Joel Wallace (9), Bill Summers (10), Kaye Jones (11), Jeff Burkhart (12)

**PUBLIC HEARING**

Councilman Grubbs made a motion to conduct a public hearing to receive comments regarding proposed zone changes. The motion was seconded by Councilman Steward. A voice vote was taken; the motion passed without objection.

**ORDINANCE 77-2012-13** (First Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Joe A. Winn, Jr. and Joe Winn, David Riggins-Agent, for zone change on property at Tiny Town Road & Barkers Mill Road from AG Agricultural District to C-5 Highway & Arterial Commercial District

David Riggins asked for support of this change and offered to answer questions. There was no voiced opposition.

Councilman Grubbs made a motion to revert to regular session. The motion was seconded by Councilman Steward. A voice vote was taken; the motion passed without objection.

## ZONING

The recommendations of the Regional Planning Staff and Commission were for approval of **ORDINANCE 77-2012-13**. Councilman Grubbs made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, Redd, Steward, Summers, Wallace

NAY: McLaughlin

The motion to adopt this ordinance on first reading passed.

## 5) CONSENT AGENDA

*All items in this portion of the agenda are considered to be routine and non-controversial by the Council and may be approved by one motion; however, a member of the Council may request that an item be removed for separate consideration under the appropriate committee report:*

1. **ORDINANCE 67-2012-13** (Second Reading) Amending the Official Code relative to Code of Ethics [*Removed; see below*]
2. **ORDINANCE 73-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Jeff Burkhart for zone change on property at Trenton Road and Kennedy Road from AG Agricultural District to R-2 Single Family Residential District [*Removed; see below*]
3. **ORDINANCE 74-2012-13** (Second Reading) Amending the Zoning Ordinance and the Official Code of the City of Clarksville relative to cluster option development [*Removed; see below*]
4. **RESOLUTION 40-2012-13** Approving a Certificate of Compliance for William and Katherine Beach (Riverbend Wine & Spirits, 1206 Highway 48)
5. Approval of Minutes: Regular Session March 7<sup>th</sup>, Special Session March 11<sup>th</sup>
6. Approval of Board Appointments:

Two Rivers Company: Jeff Bibb (replace Liana Wallace-resigned) – April 2013 through October 2014

Councilman Steward requested separate consideration of **ORDINANCE 67-2012-13** and **ORDINANCE 73-2012-13**. Councilman Grubbs requested separate consideration of **ORDINANCE 74-2012-13**. Councilman Grubbs made a motion to adopt the Consent Agenda with the exception of Items 1, 2, and 3. The motion was seconded by Councilman Steward. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt the Consent Agenda as amended unanimously passed.

## CODE OF ETHICS

### **ORDINANCE 67-2012-13** (Second Reading) Amending the Official Code relative to Code of Ethics

This ordinance was removed from the original Consent Agenda. Councilwoman Jones made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Steward.

Councilman Summers made a motion to amend this ordinance by adding the following new Section 1-623 relative to appointment of the ethics commission:

#### *Section 1-623. Ethics Commission Member Questionnaire*

*Each Ethics Commission nominee will fill out the following questions for review by members of the city council. The questionnaire results will be provided to council members one week (seven (7) calendar days) before a confirmation vote. Nominees will attend the confirmation vote meeting to introduce themselves and provide answers or further information as requested by council members.*

1. *Nominee Name:* \_\_\_\_\_
2. *Home Address:* \_\_\_\_\_
3. *Occupation:* \_\_\_\_\_
4. *Employment Firm/Company and Address:* \_\_\_\_\_

5. *Have you lived (day-to-day residence) within the city limits of Clarksville and been a registered voter of the council ward you are assigned to for at least the past two years? Yes: \_\_\_\_ No: \_\_\_\_ If no, explain.*

6. *Have you or any immediate family members (spouse and other family that reside at your home address) been associated with or participate in the formation, membership, financial donation/fundraising, management, financial oversight, political planning or membership activities of any Political Action Committee or lobby/labor organization that campaigned for or against any sitting member of the City Council? Yes: \_\_\_\_ No: \_\_\_\_ If yes, explain.*

7. *Are you or any immediate family members (spouse and other family that resides at your home address) and the companies you may own, work for or have any financial or management interest in, currently working any professional (non-competitive bid) contracts for the City of Clarksville? Yes: \_\_\_\_ No: \_\_\_\_ If yes, explain.*

8. *Have you or any immediate family members (spouse and other family that resides at home address) provided money/in-kind donations or given personal time to the campaigns of any current sitting council member or those that ran as opponents against sitting council members? Yes: \_\_\_\_ No: \_\_\_\_ If yes, explain*

9. Are you or any immediate family members (spouse and other family that resides at home address) currently an employee of the city or appointed as a representative of the city to any board, commission, company, authority, task force or other activity? Yes: \_\_\_\_ No: \_\_\_\_ If yes, explain. Have you served in such a capacity in the past? Yes: \_\_\_\_ No: \_\_\_\_ If yes, explain.

10. Are you a board member, employee or volunteer worker for a non-profit that receives funding from the City of Clarksville? Yes: \_\_\_\_ No: \_\_\_\_ If yes, explain.

11. Are you an elected official for any other local, state or federal function? Yes: \_\_\_\_ No: \_\_\_\_ If yes, please explain.

12. Have you ever been arrested and convicted or been found in violation of ethically standards with any activities you worked with or participated in? Yes: \_\_\_\_ No: \_\_\_\_ If yes, explain.

13. Is there any other information or activities that you may be involved in that will assist the council in reviewing your nomination? \_\_\_\_\_

The undersigned certifies that all of the information that has been provided is true, correct and complete to the best of my knowledge.

Signature:

Date:

The motion was seconded by Councilwoman McLaughlin. Councilman Summers read the amendment. The following vote was recorded:

AYE: Allen, Harris, Jones, McLaughlin, Redd, Steward, Summers

NAY: Burkhart, Grubbs, Guzman, Lewis, Wallace

Councilman Summers' first amendment passed. Councilman Summers made a motion to delete the proposed Sec. 1-611 and substitute instead the following:

*Section 1-611. Ethics Commission; Organization, Membership Requirements, Terms.*

*a. Organization, Number. The Ethics Commission shall be composed of thirteen (13) total members, which will form a selection pool. Seven commission members will be randomly selected to review any ethics case presented.*

*b. Appointment Method.*

*1. Each council member shall nominate one citizen from the ward they represent for appointment to the Ethics Commission. The mayor shall nominate one citizen from any ward within the city.*

*2. Each nominee will be required to complete and sign a nomination questionnaire to provide information pertaining to commission membership requirements listed in Section 1-623. This action will be conducted/coordinated through the City Attorney's Office.*

*3. The council shall approve the list of nominees in one confirmation vote. Council members may ask and direct questions to the nominees and or pull a nominee's name from the proposed confirmation list for a separate council discussion and vote. Nominees will require 2/3s approval of the full council.*

*4. Nominees not receiving the 2/3s approval margin shall be replaced by the nominating council member. The nominating council member may submit the*

*replacement for full council consideration by the next scheduled regular or special session of the council.*

*c. Membership Requirements*

*1. Ethics Commission members shall have been residents and registered voters of the City of Clarksville, Tennessee, and their assigned council ward (specific ward residency is not required for mayoral nominee) for not less than two years prior to any vote of the City Council on their appointment.*

*2. Residency within the City and ward shall be a requirement for continued membership on the Ethics Commission.*

*3. Commission members and immediate family members (spouse and other family that resides at the member's residence), cannot be associated with or participate in the formation, membership, financial donation/fundraising, management, financial oversight, political planning or membership activities of any Political Action Committee, or lobby/labor Organization that campaigned for or against any sitting member of the City Council. Such requirements will be maintained during the appointed term of the member.*

*4. Commission members, their immediate family members (spouse and other family that resides at the member's residence) and the companies they may own, work for or have any financial or management interest in cannot be awarded professional (non-competitive bid) contracts by the City of Clarksville during their appointed term. Such a requirement will be maintained during the appointed term of the member.*

*5. Commission members, their immediate family members (spouse and other family that resides at the member's residence) and the companies they may own, work for or have any financial or management interest cannot have current or ongoing professional (non-competitive bid) contracts with the City of Clarksville. Such a requirement will be maintained during the appointed term of the member.*

*6. Commission members and their immediate family members (spouse and other family that resides at the member's residence) cannot have made money/in-kind donations or given personal time for or against the campaigns of any current sitting council member. Such requirements will be maintained during the appointed term of the member.*

*7. No elected or appointed official or employee of the City, other than a member of any federal military reserve or state national guard force while not on active duty, or of any other governmental entity, to include national, state or local government, other than a member of any federal military reserve or state national guard force while not on active duty, nor any candidate for any public office, to include national, state or local government, nor any member of any other City board, commission, authority, or other city entity, may serve as a member of the Ethics Commission. For purposes of this section, legally separate, private non-profit organizations or entities that receive City funding shall be construed as a City entity. Such requirements will be maintained during the appointed term of the member.*

*d. Term.*

*1. Terms for each Ethics Commission member shall be equal to the elected term of the nominating council member. If the nominating council member remains for another elected term, that council member may re-nominate the commissioner member for another term. No member may serve more than two (2) consecutive terms.*

*2. Members will retain their commission appointment until they fail to attend three consecutive meetings of the Ethics Commission; fail to attend 2/3s of all properly called commission meetings within any calendar year; request removal; violate terms of their selection/appointment; served the maximum of two terms; or their nominating council representative is no longer in office.*

*3. When an Ethics Commission member is removed for reasons specified in this section (d(1) and d(2)) the council member(s) have 60 days to provide a replacement nomination for council approval.*

The motion was seconded by Councilman Steward. Councilman Summers read the amendment. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Redd, Steward, Summers

NAY: Burkhart, Grubbs, Guzman, Harris, Lewis, McMillan, Wallace

Councilman Summers' second amendment failed. Councilman Summers made a motion to amend Sec.1-611 and 1-622 as follows:

*Section 1-611. Ethics Commission; Organization, Membership Requirements, Terms.*

*a. Organization, Number. The Ethics Commission shall be composed of ~~five (5)~~ seven (7) voting members. ~~who shall be appointed by the Mayor, subject to City Council approval by majority vote of the members present and voting.~~*

*b. Appointment Method.*

*5. Each council member shall nominate one citizen from the ward they represent for appointment to the Ethics Commission.*

*6. Each nominee will be required to complete and sign a nomination questionnaire to provide information pertaining to commission membership requirements listed in Section 1-623. This action will be conducted/coordinated through the City Attorney's Office.*

*7. The council shall approve the list of nominees in one confirmation vote. Council members may ask and direct questions to the nominees and or pull a nominee's name from the proposed confirmation list for a separate council discussion and vote. Nominees will require majority approval of the full council. Nominees not receiving a majority approval will be dropped from further consideration.*

*8. After the confirmation vote the seven members will be determined by a random selection drawing by the Mayor. All 12 nominees will have their names drawn and selections 8-12 will act as alternates/replacements (in the order they were drawn) if one or more of the initial seven selections is unable to serve. This action will be carried out at a regular or special council session.*

*c. Membership Requirements. The members of the Ethics Commission shall have been residents of the City of Clarksville, Tennessee, for not less than two years prior to any vote of the City Council on their appointment. Residency within the City shall be a requirement for continued membership on the Ethics Commission. No elected or appointed official or employee of the City, other than a member of any federal military reserve or state national guard force while not on active duty, or of any other governmental entity, to include national, state or local government, other than a member of any federal military reserve or state national guard force while not on active duty, nor any candidate for any public office, to include national, state or local government, nor any member of any other City board, commission, authority, or other city entity, may serve as a member of the Ethics Commission. For purposes of this section, legally separate, private non-profit organizations or entities that receive City funding shall not be construed as a City entity.*

*d. Term.*

1. Terms for each member shall be for a period of three (3) years, except for initially appointed members, whose initial terms shall be as provided below to allow for staggered terms. No member may serve more than two (2) consecutive terms.

2. With regard to initial terms for members, ~~two (2)~~ three (3) such members shall serve an initial term of three (3) years each; two other such members shall serve an initial term of two (2) years each; and ~~one~~ two (2) other such member shall serve an initial term of one (1) year.

3. When new members are needed to fill vacant or expired terms, the process described in 1-611(b) will be utilized.

*Section 1-622. Commission Action Upon Finding of Violation.*

a. Report of Decision. The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

b. If the Ethics Commission decides that an official, whether elected or appointed, or an employee, within its jurisdiction has violated the Code of Ethics, then the Ethics Committee shall take one or more of the following actions, as decided by affirmative vote of at least ~~four~~ six of its members:

The motion was seconded by Councilwoman Jones. Councilman Summers read the amendment. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Redd, Steward, Summers

NAY: Burkhart, Grubbs, Guzman, Harris, Lewis, McMillan, Wallace

Councilman Summers' third amendment failed. Councilwoman McLaughlin made a motion to amend Sec. 1-621 relative to filing of complaints.

*Sec. 1-621. Procedures for Filing and Evaluation of Ethics Complaints.*

a(2) Any ethics complaint ~~must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and shall contain the following:~~

~~(a) — the complainant's legal name and current mailing address, and in addition may include an email address and/or phone number; and~~

The motion was seconded by Councilman Steward. Councilwoman McLaughlin read the amendment and noted the language to be deleted. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Redd, Steward, Summers

NAY: Burkhart, Grubbs, Guzman, Harris, Lewis, McMillan, Wallace

Councilwoman McLaughlin's amendment failed.

During discussion, Councilwoman McLaughlin, Councilman Allen, and Councilwoman Jones objected to the provision for the Mayor to nominate

individuals to serve on the ethics commission. Mayor McMillan reminded members that all members of the ethics commission were subject to approval of the City Council. The following vote on the original motion was recorded:

AYE: Burkhart, Grubbs, Guzman, Harris, Lewis, Redd, Wallace

NAY: Allen, Jones, McLaughlin, Steward, Summers

The motion to adopt this ordinance on second reading as amended passed.

## ZONING

**ORDINANCE 73-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Jeff Burkhart for zone change on property at Trenton Road and Kennedy Road from AG Agricultural District to R-2 Single Family Residential District

This ordinance was removed from the original Consent Agenda. Councilman Steward made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Summers. Councilman Steward and Councilwoman Jones said this change could increase traffic congestion and add to already over-crowded area schools. Councilman Burkhart, as owner of the property, said he would abstain from voting on this ordinance. The following vote was recorded:

AYE: Grubbs, Guzman, Harris, Lewis, McMillan, Redd, Wallace

NAY: Allen, Jones, McLaughlin, Steward, Summers

ABSTAIN: Burkhart

The motion to adopt this ordinance on second reading passed.

## CLUSTER DEVELOPMENTS

**ORDINANCE 74-2012-13** (Second Reading) Amending the Zoning Ordinance and the Official Code of the City of Clarksville relative to cluster option development

This ordinance was removed from the original Consent Agenda. Councilman Grubbs made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Steward. City Attorney Lance Baker reviewed three amendments proposed by the Regional Planning Commission relative to Development Requirements (Sec. 3A), Setbacks (Sec. 3F), and Definitions (Sec. 5). Councilman Wallace made a motion to adopt these amendments. The motion was seconded by Councilman Steward. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Lewis, McLaughlin, Redd, Summers, Wallace

NAY: Jones, Steward

The three amendments proposed by the RPC unanimously passed. No action was taken on a proposed amendment relative to minimum width requirements (Sec. 3C). Mr. Baker said another possible future amendment would address who has authority to request a change to the zoning code.

Councilman Allen made a motion to postpone second reading on this ordinance to the next meeting to allow the city attorney and the RPC to review additional amendments to the cluster development option. The motion was seconded by Councilwoman McLaughlin. The following vote was recorded:

AYE: Allen, Guzman, Jones, McLaughlin, Steward, Summers

NAY: Burkhart, Grubbs, Harris, Lewis, McMillan, Redd, Wallace

The motion to postpone failed. The following vote on the original motion as amended was recorded:

AYE: Burkhart, Grubbs, Guzman, Harris, Lewis, Redd, Summers, Wallace

NAY: Allen, Jones, McLaughlin, Steward

The motion to adopt this ordinance on second reading as amended passed.

#### COMMUNITY DEVELOPMENT COMMITTEE

*David Allen, Chair*

Councilman Allen said the Community Development Department had been awarded a Governor's Disaster Recovery Grant for Summit Heights in the amount of \$447,232.

#### FINANCE COMMITTEE

*Joel Wallace, Chair*

Councilman Wallace said no significant deficiencies were noted in the City's recently completed external audit.

#### GAS & WATER COMMITTEE

*Jeff Burkhart, Chair*

Councilman Burkhart said Gas & Water's Customer Service offices would be closed Friday, April 5<sup>th</sup>, for computer software upgrades. He congratulated Wade Rudolph on his retirement with 30 years of service with the department.

#### PARKS, RECREATION, GENERAL SERVICES

*Wallace Redd, Chair*

Councilman Redd recognized Councilman Summers who announced a policy change for fundraising events at McGregor Park and Liberty Park and mentioned certain situations that may require payment of facility rental fees.

Councilman Summers announced Ronald Graham had been named "Clarksville Sports Legends Coach of the Year."

Councilman Summers mentioned upcoming events including Clarksville Greenway Cleanup Day, City Employee Golf Scramble, and Warrior Week.

#### PUBLIC SAFETY COMMITTEE

(Building & Codes, Fire, Police)

*Geno Grubbs, Chair*

Councilman Grubbs announced the following department statistics for March 2013: Building & Codes Enforcement Division – 222 cases; Building & Codes Construction Division – 1,462 inspections; Building & Codes Administration – 79 single-family permits; Clarksville Fire & Rescue – 768 emergency responses; Clarksville Police Department – 13,447 dispatched and self-initiated cases.

Councilman Grubbs said the CPD's impaired driving patrol conducted March 29-30 resulted in 133 charges including driving under the influence, light and equipment violations, and speeding.

#### STREET COMMITTEE

*James Lewis, Chair*

Councilman Lewis said the Street Department processed 177 work orders during March.

#### TRANSPORTATION COMMITTEE

*Marc Harris, Chair*

Councilman Harris said Clarksville Transit System transported 70,871 passengers during March which was approximately ten percent less than the same month for the previous year.

#### FUNERAL ESCORT POLICY

**RESOLUTION 42-2012-13** Expressing the sense of the City Council pertaining to policy regarding Clarksville Police Department of Escort of Funeral Processions

Councilman Allen made a motion to adopt this resolution. The motion was seconded by Councilman Steward.

Councilman Burkhart said the City should consider adding personnel to the FY14 budget to safety escort all vehicles in funeral processions. Councilwoman McLaughlin said in this situation the City would be providing a service for funeral homes and not providing various services for other private businesses. Councilman Redd called for the question. The question was seconded by Councilman Lewis. A voice vote was taken; the motion to cease discussion passed without objection. The following vote on the original motion was recorded:

AYE: Allen, Harris, Jones, Steward

NAY: Burkhart, Grubbs, Guzman, Lewis, McLaughlin, Redd, Wallace

ABSTAIN: Summers

The motion to adopt this resolution failed.

## MAYOR AND STAFF REPORTS

Mayor McMillan invited the public to the annual MS Walk at Liberty Park on April 6<sup>th</sup>.

Mayor McMillan shared the status of the following capital projects:

- Public Safety Communications System: Contract was expected to be awarded within a few weeks.
- Performing Arts Center: Bid opening was scheduled for April 11.
- Police/Fire Facility: Land acquisition was underway; proposed site was determined to be inadequate for CPD.
- Smith-Trahern repairs: Architectural drawings were being completed.
- Jordon Road Traffic Signal: Completed and funded by TDOT.
- Trenton Road/Tylertown Road Drainage: Engineering work was ongoing.

In response to Councilman Steward's question, Project Manager Daniel Binkley said bids for the City Hall Air Conditioning System (chiller) should be received the second week of April.

In response to Councilwoman McLaughlin's question, Parks Manager Tonya Vaden said the architectural study for the Smith-Trahern Mansion, including chimney repair, should be completed by the end of April.

## ADJOURNMENT

The meeting adjourned at 9:16 p.m.