

**MINUTES OF MEETING OF THE REGULAR SESSION OF THE
TOWN COUNCIL
OF THE TOWN OF SMYRNA
ON FEBRUARY 10, 2009**

The Town Council of the Town of Smyrna, Rutherford County, Tennessee, met in regular session at 6:00 p.m. on February 10, 2009 at Town Hall with the Honorable Bob Spivey, Mayor, presiding.

Mayor Spivey called the meeting to order. The invocation was offered by Gary Richmond, Beer Board Member. The pledge of allegiance was led by Gary Richmond, Beer Board Member.

The roll was called by the Town Clerk and the following Town Council Members were present:

Mayor Bob Spivey
Tony Dover
Paul Johns
Lance Lee
Tim Morrell
Mary Esther Reed

Council Member H. G. Cole was not in attendance.

1. Approval or Correction of Minutes of the January 13, January 15 and 16, January 26 and January 29, 2009 meetings.

The Town Council first considered a motion by Council Member Paul Johns to approve the minutes of the January 13, 2009 regular session of the Town Council, the January 15 and 16, 2009 workshop retreat of the Town Council, the January 26, 2009 special called work session of the Town Council and the January 29, 2009 regular work session of the Town Council. The motion was duly seconded by Council Member Tim Morrell. Following discussion, the motion was approved unanimously.

2. Correspondence/Communications.

There was no correspondence or communications to be presented to the Town Council at this time.

3. Awards and Recognitions.

Town Manager Mark O'Neal announced that the annual Volunteer Banquet will be held February 20, 2009 at the Town Centre. This year's recipient of the Kenneth "Coon" Victory will be Ginny Williams.

He also congratulated the Smyrna High bowling team for winning the state championship.

4. Consent Agenda.

The following Consent Agenda items were next presented for consideration by the Town Council:

- a. Approval of the terms of, and authorization for the Mayor to execute, a contract with Pyro Shows relative to annual fireworks show.
- b. Approval of the terms of, and authorization for the Mayor to execute, various contracts relative to 2008-2009 annual material bid for Water, Sewer and Natural Gas Departments.
- c. Approval of the terms of, and authorization for the Mayor to execute, the "Special Event Application" to the U.S. Corps of Engineers relative to 2009 Boat Day/WaterFest.
- d. Approval of the terms of, and authorization for the Mayor to execute, a contract with S & W Contractors relative to the signalization at Rock Springs Road and Isabella Lane.
- e. Approval of the terms of, and authorization for the Mayor to execute, a Professional Services Agreement with The Tennergy Corporation relative to engineering design services for relocation of a natural gas line at Stones River Road and Old Nashville Highway in LaVergne.
- f. Approval of the terms of, and authorization for the Mayor to execute, a Professional Services Agreement with The Tennergy Corporation relative to engineering design services to extend natural gas lines in the Woodland Hills area of LaVergne.
- g. Approval of the terms of, and authorization for the Mayor to execute, a Professional Services Agreement with The Tennergy Corporation relative to engineering design services to extend natural gas lines in Waldron Road and International Boulevard area of LaVergne.

Following discussion, Council Member Tim Morrell made a motion to approve and adopt the Consent Agenda. The motion was duly seconded by Council Member Tony

Dover. Following further discussion, the motion was approved unanimously. A copy of each document referenced on the Consent Agenda is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "1".

5. Old Business.

- a. **PUBLIC HEARING: Consideration of an ordinance relative to the rezoning of property located on Tax Map 33D, Group A, Parcel 5.00, comprising approximately .8 acre, (requested by Paul E. Wisdom), from R-1 to R-3. Property is located on Todd Lane. Second Reading.**

At this time, Mayor Spivey recessed the meeting without objection, and a public hearing was opened related to the agenda item. No one spoke for or against the agenda item.

At this time, the public hearing was closed without objection, and the Council meeting was resumed without objection.

The Town Council next considered on second and final reading an ordinance relative to the rezoning of property located on Tax Map 33D, Group A, Parcel 5.00, comprising approximately .8 acre, (requested by Paul E. Wisdom) from R-1 to R-3. Property is located on Todd Lane. The recommendation of the Planning Commission was that the Town Council approve the rezoning request. Following discussion, Council Member Lance Lee made a motion to approve and adopt said ordinance on second and final reading. The motion was duly seconded by Council Member Tim Morrell. Following further discussion, the motion was approved unanimously. A copy of said ordinance, as approved and adopted on second and final reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "2". (Ordinance #09-01).

- b. **PUBLIC HEARING: Consideration of an ordinance relative to the amendment of the Town of Smyrna Municipal Zoning Ordinance, Article II "Definitions", Section 2.02 "Parking Space" and Article IV "Supplementary Provisions Applying to Specific Districts", Section 4.010 "Off-street parking requirements", and Section 4.010.7 "Requirements for Design of Parking Lots", Subsection B. related to the size of parking spaces. Second Reading.**

At this time, Mayor Spivey recessed the meeting without objection, and a public hearing was opened related to the agenda item. The following individuals spoke regarding the agenda item: Gary Richmond and Lee Greer.

At this time, the public hearing was closed without objection, and the Council meeting was resumed without objection.

The Town Council next considered on second and final reading an ordinance relative to the amendment of the Town of Smyrna Municipal Zoning Ordinance, Article II "Definitions", Section 2.02 "Parking Space" and Article IV "Supplementary Provisions Applying to Specific Districts", Section 4.010 "Off-street parking requirements", and

Section 4.010.7. "Requirements for Design of Parking Lots", Subsection B. related to the size of parking spaces. The recommendation of the Planning Commission was that the Town Council approve the amendment. Following discussion, Council Member Lance Lee made a motion to approve and adopt said ordinance on second and final reading. The motion was duly seconded by Council Member Paul Johns. Following further discussion, the motion was approved 5-1, with Council Member Tony Dover voting "no". A copy of said ordinance, as approved and adopted on second and final reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "3". (Ordinance #09-02).

- c. **PUBLIC HEARING:** Consideration of an ordinance relative to the amendment of the Town of Smyrna Municipal Zoning Ordinance, Article V, "Zoning Districts", Section 5.052.1 "C-1, Central Business District", Subsection C. "Uses Permitted as Special Exceptions" related to day care centers. Second Reading.

At this time, Mayor Spivey recessed the meeting without objection, and a public hearing was opened related to the agenda item. No one spoke for or against the agenda item.

At this time, the public hearing was closed without objection, and the Council meeting was resumed without objection.

The Town Council next considered on second and final reading an ordinance relative to the amendment of the Town of Smyrna Municipal Zoning Ordinance, Article V, "Zoning Districts", Section 5.052.1 "C-1, Central Business District", Subsection C. "Uses Permitted as Special Exceptions" related to day care centers. The recommendation of the Planning Commission was that the Town Council approve the amendment. Following discussion, Council Member Tim Morrell made a motion to approve and adopt said ordinance on second and final reading. The motion was duly seconded by Council Member Mary Esther Reed. Following further discussion, the motion was approved unanimously. A copy of said ordinance, as approved and adopted on second and final reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "4". (Ordinance #09-03).

- d. **PUBLIC HEARING:** Consideration of an ordinance to amend Ordinance No. 08-14, adopting the 2008-2009 Fiscal Year Budget, specifically the 2008-2009 Fee Schedule relative to fee increase for rezoning and annexation requests. Second Reading.

At this time, Mayor Spivey recessed the meeting without objection, and a public hearing was opened related to the agenda item. No one spoke for or against the agenda item.

At this time, the public hearing was closed without objection, and the Council meeting was resumed without objection.

The Town Council next considered on second and final reading an ordinance to amend Ordinance No. 08-14, adopting the 2008-2009 Fiscal Year Budget, specifically the 2008-2009 Fee Schedule relative to fee increase for rezoning and annexation requests. Following discussion, Council Member Lance Lee made a motion to approve and adopt said ordinance on second and final reading. The motion was duly seconded by Council Member Tim Morrell. Following further discussion, the motion was approved unanimously. A copy of said ordinance, as approved and adopted on second and final reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "5". (Ordinance #09-04).

- e. **PUBLIC HEARING: Consideration of an ordinance relative to the amendment of Town of Smyrna Municipal Code, Title 15 "Motor Vehicles, Traffic and Parking", Chapter 6 "Parking", Section 15-605 "Motorized vehicles and residential property" and Section 15-609 "Prohibited parking on certain surfaces" as related to modifications and exceptions. Second Reading.**

At this time, Mayor Spivey recessed the meeting without objection, and a public hearing was opened related to the agenda item. The following individuals spoke regarding the agenda item: George Croft and Joe Gourley.

At this time, the public hearing was closed without objection, and the Council meeting was resumed without objection.

The Town Council next considered on second and final reading an ordinance relative to the amendment of Town of Smyrna Municipal Code, Title 15 "Motor Vehicles, Traffic and Parking", Chapter 6 "Parking", Section 15-605 "Motorized vehicles and residential property" and Section 15-609 "Prohibited parking on certain surfaces" as related to modifications and exceptions. Following discussion, Council Member Paul Johns made a motion to approve and adopt said ordinance on second and final reading. The motion was duly seconded by Council Member Lance Lee. Following further discussion, the motion was approved unanimously. A copy of said ordinance, as approved and adopted on second and final reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "6". (Ordinance #09-05).

There was no other Old Business to be considered by the Town Council.

6. New Business.

a. Planning Commission Report.

- i. Consideration of an ordinance relative to the amendment to the text of the Smyrna Municipal Zoning Ordinance regarding Article V, Section 5.053.1 I-1, Light Industrial District, to add boat dealers as a use permitted as a special exception. First Reading.**

The Town Council next considered on first reading an ordinance relative to the text of the Smyrna Municipal Zoning Ordinance regarding Article V, Section 5.053.1 I-1, Light Industrial District, to add boat dealers as a use permitted as a special exception. The recommendation of the Planning Commission was that the Town Council approve the amendment. Following discussion, Council Member Lance Lee made a motion to approve and adopt said ordinance on first reading. The motion was duly seconded by Council Member Tony Dover. Following further discussion, the motion was approved unanimously. A copy of said ordinance, as approved and adopted on first reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "7". (Ordinance #09-06).

b. Approval of naming of Volunteer Park Field #3 after Terry Roberts.

The Town Council next considered a motion by Council Member Mary Esther Reed to approve the naming of Volunteer Park Field #3 after Terry Roberts. The motion was duly seconded by Council Member Tim Morrell. Following discussion, the motion was approved unanimously.

c. Consideration of the disposition of surplus property of Town-owned property on the east side of Front Street between Elder's Chapel Church and Hart's Branch.

The Town Council next considered a motion from Council Member Lance Lee to attempt to re-auction the property and if unsuccessful then leave the property in the Town's name until further consideration. The Motion was subsequently withdrawn. The Town Council next considered a motion from Council Member Lance Lee to hold off on the disposition of surplus property of Town-owned property on the east side of Front Street between Elder's Chapel Church and Hart's Branch. The motion was duly seconded by Council Member Tim Morrell. Following discussion, the motion was approved unanimously.

Council Member Lance Lee directed that the proposed amendments to the disposition of surplus real property ordinance be placed on the workshop meeting agenda for discussion. Council Member Mary Esther Reed requested that the Council be informed once word was received from the Division of Municipal Audit.

- d. Approval of the terms of, and authorization for the Mayor to execute, a development agreement with Smyrna Commons, LLC relative to rebates of future roadway impact fees.**

The Town Council next considered a motion by Mayor Spivey to authorize Town Attorney Michele Elliott to draft a development agreement with Smyrna Commons, LLC relative to rebates of future roadway impact fees and to bring it to the Town Council at the February worksession. The motion was duly seconded by Council Member Tim Morrell. Following discussion, the motion was approved unanimously.

Council Member Lance Lee further directed that an amendment be brought to the workshop meeting in February related to when impact fee developments could be entered into.

- e. Consideration of a resolution authorizing the acquisition of property by negotiation or condemnation for the purpose of carrying out the Town of Smyrna Mayfield Sidewalk Project.**

The Town Council next considered a resolution authorizing the acquisition of property by negotiation or condemnation for the purpose of carrying out the Town of Smyrna Mayfield Sidewalk Project. Following discussion, Council Member Lance Lee made a motion to approve and adopt said resolution. The motion was duly seconded by Council Member Mary Esther Reed. Following further discussion, the motion was approved unanimously. A copy of said resolution is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "8". (Resolution #09-01).

- f. Approval of the terms of, and authorization for the Mayor to execute, Consent Judgment and Final Order relative to Town of Smyrna v. William & Penny Brittain as to the Rock Springs Road Improvement Project.**

The Town Council next a motion by Council Member Tim Morrell to approve the terms of and authorize the Mayor to execute Consent Judgment and Final Order relative to Town of Smyrna v. William & Penny Brittain as to the Rock Springs Road Improvement Project. The motion was duly seconded by Council Member Tony Dover. Following discussion, the motion was approved 5-0-1, with Council Member Mary Esther Reed abstaining. A copy of said document is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "9".

- g. Consideration of an ordinance relative to the amendment of Town of Smyrna Municipal Code, Title 11 "Municipal Offenses", Chapter 4 "Offenses Against the Peace and Quiet", Section 11-402 "Anti-noise regulations" to add a provision making it unlawful to engage in commercial garbage pick-up during certain hours. First Reading.**

The Town Council next considered on first reading an ordinance relative to the amendment of Town of Smyrna Municipal Code, Title 11 "Municipal Offenses", Chapter 4 "Offenses Against the Peace and Quiet", Section 11-402 "Anti-noise regulations" to add a provision making it unlawful to engage in commercial garbage pick-up during certain hours. Following discussion, Council Member Tony Dover made a motion to approve and adopt said ordinance on first reading. The motion was duly seconded by Council Member Lance Lee. Following further discussion, the motion was approved unanimously. A copy of said ordinance, as approved and adopted on first reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "10". (Ordinance #09-07).

Council Member Tony Dover requested that notice of the proposed ordinance be sent out to waste haulers in the area.

h. Consideration of a resolution to adopt the Property Tax Freeze Act Program as provided in Tennessee Code Annotated §67-5-705.

The Town Council next considered a resolution to adopt the Property Tax Freeze Act Program as provided in Tennessee Code Annotated §67-5-705. Following discussion, Council Member Paul Johns made a motion to approve and adopt said resolution and Interlocal Agreement. The motion was duly seconded by Council Member Tim Morrell. Following further discussion, the motion was approved unanimously. A copy of said resolution and Interlocal Agreement is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "11". (Resolution #09-02).

i. Consideration of an ordinance to amend Ordinance No. 08-14, adopting the 2008-2009 Fiscal Year Budget relative to Isabella/Rock Springs Road traffic signal and the aerial platform truck. Second Reading.

The Town Council next considered on first reading an ordinance to amend Ordinance No. 08-14, adopting the 2008-2009 Fiscal Year Budget relative to Isabella/Rock Springs Road traffic signal and the aerial platform truck. Following discussion, Council Member Tony Dover made a motion to approve and adopt said ordinance on first reading. The motion was duly seconded by Council Member Mary Esther Reed. Following further discussion, the motion was approved unanimously. A copy of said ordinance, as approved and adopted on first reading, is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit "12". (Ordinance #09-08).

j. Discussion relative to expiration and extension of building permits.

The Town Council next considered a motion by Council Member Paul Johns to authorize Town Manager Mark O'Neal to administratively waive the renewal fee for those whose permits had expired as of the date of the ordinance change and who were

ineligible to apply for an extension under the amended ordinance and to refund those who had already paid. The motion was duly seconded by Council Member Mary Esther Reed. Following discussion, the motion was approved unanimously.

k. Other.

There was no other New Business to be considered by the Town Council.

7. Status Reports.

There were no status reports to be reported to the Town Council at this time.

8. Announcements.

Mayor Spivey gave a status report on the bond signing.

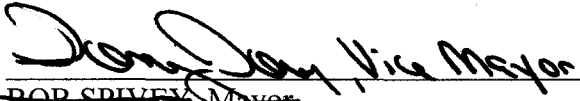
Council Member Paul Johns thanked the Fire Department for the good job they do.

Council Member Mary Esther Reed wished everyone a "Happy Valentine's Day".

Council Member Tony Dover reminded everyone that board and committee appointments will be made in March.

Without objection, the meeting was adjourned.

TOWN OF SMYRNA, TENNESSEE


~~BOB SPIVEY, Mayor~~
Tony Dover, Vice Mayor

ATTEST:


DIANNE WALDRON, Town Clerk