

## CHARLOTTESVILLE CITY COUNCIL MEETING

December 5, 2022 at 4:00 p.m.

In person: Council Chamber, 605 E. Main Street

Virtual/electronic: Zoom

The Charlottesville City Council met on Monday, December 5, 2022. The meeting was held in hybrid format with Council members and limited public seating in Council Chamber to mitigate health risks related to coronavirus, and electronic participation on the Zoom webinar platform. Mayor Lloyd Snook called the meeting to order at 4:02 p.m. and Clerk of Council Kyna Thomas called the roll, noting the following councilors present: Sena Magill, Michael Payne, Brian Pinkston, Mayor Lloyd Snook and Vice Mayor Juandiego Wade.

On motion by Payne, seconded by Magill, Council voted unanimously to adopt the meeting agenda: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

### REPORTS

#### 1. **REPORT: FY24 Vibrant Community Fund Update**

Misty Graves, Director of Human Services, and Hunter Smith, Human Services Planner, presented the Vibrant Community Fund update. Applications opened on October 5th and closed on November 9th. In-person orientation was offered, office hours were held on multiple occasions, and orientation for the review team (including 16 citizen members) was conducted. There were 50 applications received for FY24 funding, with 12 of those being new or emerging organizations. The total amount requested from applicants was \$4,315,608.01.

Budget Director Krisy Hammill verified previous annual funding amounts and stated that staff looks to Council for guidance in budgeting for priorities.

Councilors discussed the need to increase funding from the approximately \$1.9 Million that has been allocated in previous years, noting an increase in local needs, and potentially building in an incremental increase annually. Several councilors also suggested making the funding process more flexible.

#### 2. **REPORT: Report on Annual Financial Audit for Fiscal Year 2022 from City's Auditors**

Chris Cullinan, Director of Finance, introduced the city's auditors, Independent Certified Public Accountants at RFC (Robinson, Farmer, Cox Associates, PLLC).

Matt McLearn and Michael Lupton reported on the audit process, the required communications (in a public meeting and in writing), and the clean audit opinion for Fiscal Year 2022. They stated that the city has sufficient controls in place for financial reporting.

Mr. Cullinan reported that the full audit report will be placed on the city website, and the December 19 meeting will include a report of recommendations. He also mentioned a significant fund balance.

## **CLOSED SESSION**

On motion by Pinkston, seconded by Payne, Council voted 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none) to meet in closed session as authorized by Virginia Code Section 2.2-3711(A) (A)(1), for

- Discussion or consideration of applicants for appointment to the Charlottesville Police Civilian Oversight Board;
- Discussion and consideration of the candidate proposed by the City Manager for appointment as chief of police.

On motion by Pinkston, seconded by Payne, Council certified by the following vote: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none), that to the best of each Council member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the Motion convening the closed session were heard, discussed or considered in the closed session.

## **BUSINESS SESSION**

City Council observed a moment of silence.

## **RECOGNITIONS/PROCLAMATIONS**

Councilor Magill thanked city staff for putting on the 25<sup>th</sup> Anniversary Grand Illumination on December 2<sup>nd</sup>.

## **CONSENT AGENDA\***

Clerk of Council Kyna Thomas read the following Consent Agenda items into the record:

3. MINUTES: October 17 meeting
4. RESOLUTION: Approving and appropriating grant funds for Virginia Department of Education Special Nutrition Program - Child and Adult Care Food Program - \$50,000 (2nd reading)

### **RESOLUTION**

#### **Virginia Department of Education Special Nutrition Program Child and Adult Care Food Program \$50,000**

**WHEREAS**, the City of Charlottesville, through Parks and Recreation, has received approval for reimbursement up to \$50,000 from the Virginia Department of Education Special Nutrition Program to provide free dinner to children attending select drop-in afterschool centers; and

**WHEREAS**, the grant award covers the period from period October 1, 2022 through September 30, 2023;

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia that the sum of \$50,000, received from the Virginia Department of Education Special Nutrition Program is hereby appropriated in the following manner:

**Revenue – \$ 50,000**

Fund: 209 Internal Order: 1900503 G/L Account: 430120

**Expenditures - \$50,000**

Fund: 209 Internal Order: 1900503 G/L Account: 530670

**BE IT FURTHER RESOLVED**, that this appropriation is conditioned upon the receipt of \$50,000 from the Virginia Department of Education Special Nutrition Program.

5. RESOLUTION: Considering a Special Use Permit request for 901 Seminole Trail and 1801 Hydraulic Road

**RESOLUTION**

**Granting a Special Use Permit for Property Located at 901 Seminole Trail and 1801 Hydraulic Road**

WHEREAS 901 Seminole Trail LLC (“Applicant”) is the contract purchaser of certain land identified within the City of Charlottesville real estate records by Real Estate Parcel Identification Nos. 41B001000 and 41B002000 (together, the “Subject Property”), which has frontage on Seminole Trail, Hydraulic Road, Hillsdale Drive, and India Road; and

WHEREAS the Subject Property is located in the Highway Mixed Use Corridor zoning district, subject to the Entrance Corridor Overlay district regulations, and according to the Use Matrix set forth within City Code 34-796, restaurants are a permissible use of the Subject Property but a restaurant with a drive-through window is permissible only if authorized by City Council by special use permit; and

WHEREAS the specific development proposed by the Applicant is described in detail within the application materials submitted in connection with SP22-00006, as required by City Code §34-158 (collectively, the “Application Materials”); and

WHEREAS the City Council and the Planning Commission conducted a joint public hearing on November 8, 2022, following public notice given in accordance with applicable law; and

WHEREAS at their November 8, 2022 meeting, the Planning Commission considered and voted to recommend approval of this request, subject to conditions recommended within the Staff Report and modified during their meeting; now, therefore,

**BE IT RESOLVED** by the Council for the City of Charlottesville, Virginia, that a Special Use Permit is hereby granted, to allow a drive-through restaurant as a permissible use of the

Subject Property subject to the following conditions:

- (1) The drive-through restaurant use shall be allowed only within the current boundaries of the 901 Seminole Trail parcel (41B001000);
- (2) The maximum setback off Seminole Trail, for the 901 Seminole Trail (41B001000) and 1801 Hydraulic Road (41B002000) parcels, shall be 75 feet;
- (3) The maximum setback off Hydraulic Road, for the 901 Seminole Trail (41B001000) and 1801 Hydraulic Road (41B002000) parcels, shall be 75 feet;
- (4) The maximum setback off India Road, for the 901 Seminole Trail (41B001000) and 1801 Hydraulic Road (41B002000) parcels, shall be 75 feet;
- (5) The maximum setback off Hillsdale Drive, for the 901 Seminole Trail (41B001000) and 1801 Hydraulic Road (41B002000) parcels, shall be 50 feet;
- (6) A pedestrian pathway shall be created by the landowner, to provide access to the Subject Property from the intersection of Seminole Trail and Hydraulic Road and such pathway shall be handicapped accessible, or as much so as practically possible; and
- (7) A sit-down dining area for the restaurant, or an alternate “walk-up” window, shall be provided and shall remain open to the public at all times when the drive-through window is in operation.

6. RESOLUTION: Considering a Special Use Permit request at 211 Albemarle Street

### **RESOLUTION**

#### **Granting a Special Use Permit for a Daycare Facility at 211 Albemarle Street**

**WHEREAS** Pilgrim Baptist Church Trustees (“Applicant”) are the owners of certain land identified within the City of Charlottesville real estate records by Real Estate Parcel Identification No. 310025000 (the “Subject Property”), which has frontage on Albemarle Street and West Street; and

**WHEREAS** the Subject Property is subject to two separate zoning district classifications: the Central City Mixed Use Corridor District and R-1S (Residential Small Lot). According to the Use Matrices set forth within City Code 34-420 and 34-796, a daycare facility is permitted by right in the Central City Mixed Use Corridor, but both zoning districts permit the use of the Subject Property as a daycare facility; however, a daycare facility proposed within the R-1S zoning district requires a special use permit; and

**WHEREAS** the proposed daycare facility is described in more detail within the application materials dated October 4, 2004, submitted in connection with SP22-00010, as required by City Code §34-158 (the “Application Materials”); and

**WHEREAS** the City Council and the Planning Commission conducted a joint public hearing on November 8, 2022, following public notice given in accordance with applicable law; and

**WHEREAS** the Planning Commission considered and recommended approval of this application at their November 8, 2022 meeting, subject to conditions recommended within the Staff Report; now, therefore,

**BE IT RESOLVED** by the Council for the City of Charlottesville, Virginia, that a Special Use Permit is hereby granted to allow a daycare facility to be established on the Subject Property subject to the following conditions:

- (1) The daycare facility shall not serve more than fifteen (15) students;
- (2) The daycare facility shall adhere to the parking and pickup/drop off plan set forth within the Application Materials. This plan will be kept on file with the City's zoning administrator and may be updated or amended from time to time subject to advance approval by the City's Traffic Engineer of any proposed updates or amendments.

On motion by Pinkston, seconded by Payne, Council by the following vote **ADOPTED** the Consent Agenda: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

### **CITY MANAGER REPORT**

Michael C. Rogers, Interim City Manager stated that the written report will be provided with the December 19 agenda packet.

Sam Sanders, Deputy City Manager of Operations reported on transportation items:

- The Stribling Avenue sidewalk project is not moving forward as quickly as expected because of a lawsuit; however, city staff is still working to ensure readiness to move forward once the legal issue is resolved.
- Ideas regarding the JPA corridor are being considered, some funded and some unfunded, and will require organization and coordination.
- Regarding the dedicated bike lanes suggested along West Main Street, the city is not currently taking on new projects on West Main. Potential reconsideration may result from conversation with the Virginia Department of Transportation; however, funding may need to be prioritized for competing projects.
- The Safe Routes to Schools budget is being reconciled and consideration is being requested for additional funding to address work needed on a section of East High Street.

Ashley Marshall, Deputy City Manager for Racial Equity, Diversity and Inclusion announced the National Community Survey being conducted, and the various methods being used to reach out to residents and stakeholders. She stated that the survey link for the general public would open on December 7.

Mr. Rogers stated that the National Survey results will inform the strategic planning process and he announced the receipt of seven proposals for Strategic Planning Consultants, with an award expected within a week and the strategic planning effort to launch in January.

## COMMUNITY MATTERS

Mayor Snook opened the floor for comments from the public.

1. Kate Fraleigh, city resident, thanked the Police Civilian Oversight Board members for their work. She expressed concern about the lack of people prepared to address mental health. She made suggestions for use of surplus funds to help with mental health training, education and internships, in addition to proposals in the council legislative agenda proposals.
2. John Hossack, city resident, spoke in opposition to the Mount View special use permit requests on the agenda. He mentioned traffic safety deficiencies and requested consideration of a deferral.
3. James Groves, city resident, recommended that the city eliminate natural gas subsidies.
4. Stuart Walton, city resident, spoke on the Mount View development project on the agenda, stating that the process was rushed, and that there are safety concerns. He requested deferral of the vote on this item.
5. Chris Meyer, city resident, commended the Grand Illumination event and thanked a staff person in the NDS Department who helped with a building inspection process. He made statements about the Buford renovation project moving forward and requested that surplus funds be used to help with cost increases caused by inflation as well as inclusion of updating the auditorium. He spoke in favor of gas utility subsidy elimination.

## ACTION ITEMS

### **7. PUBLIC HEARING/ORDINANCE: Amending the 2018 City/County Courts Memorandum of Agreement and approving a 40-year lease (carried)**

Deputy City Manager Sanders provided background information about the existing Memorandum of Agreement for City/County Courts. He stated that this action would not impact Lucky 7 or Guadalajara establishments.

Chris Engel, Director of Economic Development, summarized the proposed ordinance and agreement.

Mayor Snook opened the public hearing.

- Rory Stolzenberg thanked staff for working to arrive at this solution.

Mayor Snook closed the public hearing.

Council unanimously agreed to carry the item to the December 19 Consent Agenda for second reading and vote.

### **8. RESOLUTION: Consent to City Manager's appointment of Chief of Police**

Mr. Rogers described the police chief search process and announced the nomination of Michael Kochis as the next police chief for the City of Charlottesville.

On motion by Wade, seconded by Pinkston, Council by the following vote APPROVED

the resolution consenting to the City Manager's recommendation for appointment of a Chief of Police: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

## **RESOLUTION**

### **Giving Council's Consent to the City Manager's Appointment of a Chief of Police**

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia, pursuant to Section 20-2 of the City Code that that the City Manager's appointment of Michael Kochis to the position of Charlottesville Police Chief is hereby approved by the City Council.

Mr. Michael Kochis joined the meeting virtually and provided comments, noting his expected start date of January 16, 2023.

Mr. Rogers thanked Acting Chief Tito Durette for his service to the city and the department.

### **9. ORDINANCE/RESOLUTION: Police Civilian Oversight Board Matters**

#### **a. ORDINANCE: Amending Chapter 2, Article XVI of the City Code (PCOB) (carried)**

William Mendez, Chair of the Police Civilian Oversight Board, presented the proposed ordinance amendment, making the authority for investigation of an incident analogous to the investigation of a complaint. The ordinance was developed with approval from the City Attorney and PCOB independent counsel.

Council unanimously agreed to carry the item to December 19 for second reading and vote.

#### **b. RESOLUTION: Approving Operating Procedures for the PCOB (tabled to December 19)**

Mr. Mendez presented the revised operating procedures for consideration. The procedure revisions were developed with approval from the City Attorney and PCOB independent counsel.

Mr. Snook expressed concern with voting at this meeting in order to further review recently received feedback.

Council unanimously agreed to table the item to December 19.

### **10. ORDINANCE: Considering a Zoning Map Amendment for the Mount View PUD (Planned Unit Development) (carried)**

Carrie Rainey, Urban Designer/City Planner, summarized the request. The Planning Commission recommended denial of the Planned Unit Development.

Councilor Pinkston noted that the Planning Commission concerns were focused on the affordable housing component of the project. The updated materials presented to Council addresses most of

the concerns.

Kelsey Schlein, Shimp Engineering, answered questions for Council.

Mr. Pinkston expressed concern about transportation and infrastructure to support the development, given other simultaneous projects. He requested input from the city's traffic engineer.

Ms. Magill recommended referring the PUD ordinance back to the Planning Commission to vet the changes.

Mr. Payne requested feedback from the Office of Community Solutions. Alex Ikefuna, Director, stated that the current plan is better than what was presented to the Planning Commission since the developer doubled the affordability period. Ms. Schlein stated that the developer worked closely with the Office of Community Solutions to fine-tune proffer wording. Mr. Payne noted concerns with not holding developers accountable to the draft inclusionary zoning ordinance.

Responding to Mr. Wade, Ms. Rainey stated that public notice was in compliance for this agenda item, and that courtesy emails were sent.

Justin Shimp, applicant, provided additional context to describe project entryways. He also stated that the plan for stormwater management is to have a full onsite retention system.

City Attorney Lisa Robertson provided guidance to Council on ways to move forward with the item. She suggested that a cover sheet should document all changes made since the Planning Commission meeting, including any changes between this meeting and the second reading.

Ms. Schlein stated for the record a 4-1-1 vote for denial from the Planning Commission, whereas Ms. Magill mentioned a 6-0 vote.

Mr. Snook requested feedback from James Freas, Director of Neighborhood Development Services, who stated that issues were clearly communicated at the Planning Commission meeting.

On motion by Pinkston, seconded by Wade, Council by the following vote carried the ordinance to December 19 for second reading and vote with the proviso of updates to proffers: 4-1 (Ayes: Payne, Pinkston, Snook, Wade; Noes: Magill).

**11. RESOLUTION: Considering a Sidewalk Waiver Request for the Mount View PUD (Planned Unit Development) (1 reading)**

On motion by Pinkston, seconded by Wade, Council by the following vote tabled the resolution to December 19 to consider along with the preceding ordinance: 4-1 (Ayes: Payne, Pinkston, Snook, Wade; Noes: Magill).

**12. RESOLUTION: Transferring Capital Funds from City/County fund (P-00834) for renovations to Washington Park Pool - \$350,000 (carried)**



Riaan Anthony, Deputy Director of Parks and Recreation, presented the request. The City of Charlottesville, through Parks and Recreation, has funding that was budgeted to install synthetic turf and lights on four rectangular athletic fields at Darden Towe Park in Fiscal Year 2020 (P-00834) in the amount of \$923,963. This Capital Improvement Plan is a joint project fund between the City and County, and the County did not approve the project and recent deliberation confirmed they are not moving forward as originally planned. City staff requested to reallocate funds in order to resurface the Washington Park Pool shell and all the pool amenities, including shade structures and mirror renovation.

Council unanimously agreed to carry the item to the December 19 meeting for second reading and vote.

**13. RESOLUTION: Expressing support for a Capital Project to establish Handicapped Access to the Charlottesville Dogwood Vietnam Memorial**

Mr. Sanders presented the request. The Dogwood Vietnam Memorial was the first civic/ public memorial in the United States to be dedicated to those who served and sacrificed their lives in service to their country in the war in Vietnam.

On motion by Pinkston, seconded by Magill, Council by the following vote APPROVED the resolution expressing support for a Capital Project to establish handicapped access to the Charlottesville Dogwood Vietnam Memorial: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

**RESOLUTION**  
**Expressing Support for a Capital Project to Establish Handicapped Access to the Charlottesville Dogwood Vietnam Memorial**

WHEREAS the Charlottesville City Council recognizes the historic significance of the Dogwood Vietnam Memorial as the first Vietnam War Memorial constructed on public property within our country, and Council also wishes to acknowledge the continuing importance of this memorial as a poignant lesson of the sacrifices of many of our local residents during the Vietnam War; and

WHEREAS the Dogwood Vietnam Memorial was originally constructed in the mid-1960s within McIntire Park, a public park owned by the City of Charlottesville, funded entirely by private donations, and City Council desires to take steps to ensure that the Memorial will remain an important, integral component of the City's public park system, for generations to come; and

WHEREAS the Charlottesville City Council respects the unflagging commitment of the Dogwood Vietnam Memorial Foundation, whose members have generously contributed funding and supplies over the course of many years for the care, maintenance, and enhancement of the memorial and surrounding plaza; and

WHEREAS in response to concerns that the Memorial is not easy for handicapped persons to access, City Council appointed a working group in 2019, to discuss pedestrian access to the Dogwood Vietnam Memorial Plaza and identify obstacles to pedestrian accessibility; this working group recommended to City Council the creation of a vehicle parking area with a pedestrian bridge crossing over the John Warner Parkway that would not only improve pedestrian access to the memorial but would also enhance access to the citywide trail system and the eastern portion of McIntire Park; now, therefore,

BE IT RESOLVED by the Council of the City of Charlottesville THAT the City Council desires to identify a path forward for making a parking lot and handicapped accessible access from the parking lot to the Dogwood Vietnam Memorial Plaza a viable capital construction project, to be undertaken either by the City government, or by the City in conjunction with a third party, following review of options available under applicable procurement or other legal procedures, with the intention that the project will be funded by private donations as well as state or local public funds; and

BE IT FURTHER RESOLVED THAT the City Council hereby requests Senator Creigh Deeds to sponsor a request for state funding to be awarded to the Charlottesville Dogwood Vietnam Memorial Foundation, or to the City of Charlottesville as fiscal agent for the Foundation, such funding to be used solely for construction of a parking lot adjacent to the John Warner Parkway and construction of a handicapped-accessible pedestrian walkway from the parking lot to the Dogwood Vietnam Memorial Plaza.

## **GENERAL BUSINESS**

### **14. ACTION ITEM: 2023 Local Legislative Positions**

Each year, the localities in the Thomas Jefferson Planning District (TJPD) adopt legislative priorities and positions on issues of importance and concern to local governments. These positions form the basis for local advocacy efforts during the General Assembly session each winter. The City Attorney's Office works in conjunction with TJPD's legislative liaison during the session to provide advocacy on behalf of the City's interests. Additionally, City Council establishes a statement of legislative positions as a means of communicating to legislators (i) issues of specific concern and interest to Council, and (ii) requests, if any, for legislative action items.

#### **a. By Motion: Thomas Jefferson Planning District Commission (TJPDC) Proposed Legislative Positions (2023) – David Blount**

David Blount, TJPDC, reviewed regional priorities:

1. The Planning District localities urge the State to fully fund its share of the realistic costs of the Standards of Quality (SOQ) without making policy changes that reduce funding or shift funding responsibility to localities.
2. The Planning District's member localities urge the governor and legislature to enhance state aid to localities and public schools, to not impose unfunded mandates on or shift costs to localities, and to enhance local revenue options.

3. The Planning District's member localities urge and support state and federal efforts and financial incentives that assist localities and their communities in deploying universal, affordable access to broadband technology in unserved areas.

The TJPDC report included legislative positions on the Children's Services Act, economic and workforce development, education, environmental and water quality, general government, health and human services, housing, land use and growth management, public safety and transportation.

On motion by Pinkston, seconded by Payne, Council by the following vote AFFIRMED support of the TJPDC proposed legislative positions for 2023 except for sovereign immunity for local governments and their employees, and mandating expansion of the Chesapeake Bay Preservation Act's coverage area: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

**b. By Motion: City Council Proposed Legislative Positions (2023) – Mayor Snook and Councilor Magill**

Mayor Snook presented the local legislative positions, removing paragraph J-9 from the presented materials as a duplicate. Of the legislative positions, the following items were listed as priorities:

1. Our most important legislative priority is legislation to allow all localities the option to enact a one-cent sales tax increase to provide funding dedicated to the construction or renovation of public-school facilities. If legislation allowing all localities this option is not successful, we would also support any bill that would allow Charlottesville the option.
2. We encourage the General Assembly to authorize localities to require affordable housing set-asides for large developments.
3. We call for state legislation that will require AirBnB, VRBO, and similar short-term rental platforms to disclose information about short term rentals to local government officials, sufficient to allow local officials information necessary to verify that local taxes are being paid and local zoning ordinances are being complied with.
4. We support legislation to change the requirement that a police officer remain with someone who is the subject of an Emergency Custody Order until a bed is found for that person. This requirement is causing Police Departments to take officers off of regular patrol duties for up to 72 hours at a time when Police Departments across the Commonwealth are having trouble hiring enough officers to meet pressing needs.
5. We oppose the efforts of the natural gas industry to tie the hands of the localities in how the localities deal with gas utilities.
6. We encourage the General Assembly to amend §2.2-3711 of the Virginia Freedom of Information Act, to expressly allow police civilian oversight boards the

authority to convene within closed meetings, to protect the privacy of complainants and to deliberate on police officer personnel and disciplinary matters.

7. We support removing barriers for localities seeking to participate in net and virtual net metering through the state's existing municipal net metering pilot program allowing for eligibility of facilities installed and operated pursuant to power purchase agreements (PPAs) and raising or removing system size limits that are inconsistent with state's net metering provisions.
8. Medicaid reimbursement rates – particularly for mental health services – must be significantly increased.
9. We support legislation to abolish the designation of “single-family” zoning areas throughout the Commonwealth. Policies encouraging “inclusionary zoning” would allow for more affordable housing and create more diverse communities.

On motion by Magill, seconded by Pinkston, Council by the following vote AFFIRMED support of the City Council Proposed Legislative Positions for 2023: 5-0 (Ayes: Magill, Payne, Pinkston, Snook, Wade; Noes: none).

#### **COMMUNITY MATTERS (2)**

- Marcia Geyer, city resident, thanked Council for the selection of the Chief of Police and acknowledged the acting police chief, Tito Durette.

Mayor Snook adjourned the meeting at 8:53 p.m.

BY Order of City Council

BY Kyna Thomas, Clerk of Council