



**CLARKSVILLE CITY COUNCIL  
EXECUTIVE SESSION  
MARCH 28, 2013, 4:30 P.M.**

**COUNCIL CHAMBERS  
106 PUBLIC SQUARE  
CLARKSVILLE, TENNESSEE**

**AGENDA**

**1) PLANNING COMMISSION: PUBLIC HEARING**

1. **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 *(RPC:Approval/Approval)*

**2) 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
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

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
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

3) COMMUNITY DEVELOPMENT COMMITTEE  
*David Allen, Chair*

4) FINANCE COMMITTEE  
*Joel Wallace, Chair*

5) GAS & WATER COMMITTEE  
*Jeff Burkhart, Chair*

6) PARKS, RECREATION, GENERAL SERVICES  
*Wallace Redd, Chair*

7) PUBLIC SAFETY COMMITTEE  
(Building & Codes, Fire, Police)  
*Geno Grubbs, Chair*

8) STREET COMMITTEE  
*James Lewis, Chair*

9) TRANSPORTATION COMMITTEE

*Marc Harris, Chair*

10) NEW BUSINESS

**RESOLUTION 39-2012-13** A resolution requesting that Mayor McMillan direct the Police Department to abandon the new funeral escort policy and revert back to the old policy (*Councilman Allen*)

11) MAYOR AND STAFF REPORTS

12) ADJOURNMENT

13) PUBLIC COMMENTS

ORDINANCE 77-2012-13

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

*BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:*

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned AG Agricultural District, as C-5 Highway & Arterial Commercial District.

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Mayor

*ATTEST:*

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City Clerk

*PUBLIC HEARING:*

*FIRST READING:*

*SECOND READING:*

*EFFECTIVE DATE:*

EXHIBIT A

Beginning at a point being the intersection of the north margin of Tiny Town Road and the west margin of Barkers Mill Road; thence with the north margin of Tiny Town Road in a westerly direction 588 +/- feet to the southeast corner of the Kenrick Banks property; thence with the east line of the Kenrick Banks property in a northerly direction 260 +/- feet to the northwest corner of the Joe Winn, Sr. property; thence with the north line of the Joe Winn, Sr. and Joe Winn, Jr. properties in an easterly direction 675 +/- feet to a point in the west margin of Barkers Mill Road; thence with the west margin of Barkers Mill Road in a southerly direction 250 +/- feet to the point of beginning, containing 3.7 +/- acres. (Tax Map 07, Parcel(s) 10.01 & 11.00) AG to C-5

### CITY ZONING ACTIONS

The following case(s) will be considered for action at the formal session of the Clarksville City Council on: April 4, 2013. The public hearing will be held on: April 4, 2013.

CITY ORD. #:           RPC CASE NUMBER: Z-5-2013

Applicant:       JOE A. WINN, JR. / JOE A. WINN

Agent:           David Riggins

Location:       in the northwest quadrant of the intersection of Tiny Town Rd. & Barkers Mill Rd.

Ward #:          8

Request:       AG Agricultural District

to

C-5 Highway & Arterial Commercial District

STAFF RECOMMENDATION: APPROVAL

PLANNING COMMISSION RECOMMENDATION: APPROVAL

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**CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION**  
**STAFF REVIEW - ZONING**

RECORD # 1867

**RPC MEETING DATE:** 3/27/2013

**CASE NUMBER:** Z - 5 - 2013

**NAME OF APPLICANT:** Joe A. Winn, Jr. /  
Joe A. Winn

**AGENT:** David Riggins

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**GENERAL INFORMATION**

**PRESENT ZONING**  
**CLASSIFICATION:** AG

**PROPOSED ZONING**  
**CLASSIFICATION:** C-5

**GROWTH PLAN AREA:** CITY

**APPLICANT'S STATEMENT** Future commercial development.  
**FOR PROPOSED USE:**

**CITY COUNCIL WARD:** 8

**TAX PLAT #** 007

**PARCEL #** 10.01 & 11.00 (portion)

**COUNTY COMMISSION**  
**DISTRICT:** 18

**CIVIL DISTRICT** 2nd

**PREVIOUS ZONING**  
**HISTORY:**

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**GENERAL DESCRIPTION OF PROPERTY TO BE REZONED**

**PROPERTY** in the northwest quadrant of the intersection of Tiny Town Rd. & Barkers Mill Rd.  
**LOCATION:**

**DESCRIPTION** Parcel(s) located on a high traffic corner with a single family residence.  
**OF PROPERTY:**

**ACREAGE TO**  
**BE REZONED:** 3.7 +/-

**EXISTING LAND USE:** Single Family

**SURROUNDING USES:** North & West-Single Family; South-R-1A/R-4; East-C-5

**EXTENSION OF ZONE**  
**CLASSIFICATION:** Yes C-5 To The East

**DRAINAGE:** Varies

**ACCESSIBILITY:** Tiny Town Rd & Barkers Mill Rd.

**CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION**

**STAFF REVIEW - ZONING**

**DEPARTMENT COMMENTS**

- ☒ CITY ENGINEER  
☐ UTILITY DISTRICT  
☒ JACK FRAZIER  
☒ CITY STREET DEPT.  
☒ TRAFFIC ENG. - ST. DEPT.  
☐ COUNTY HIGHWAY DEPT.  
☐ CEMC  
☒ DEPT. OF ELECTRICITY (CDE)  
☐ CHARTER COMM.

- ☐ BELL SOUTH  
☒ FIRE DEPARTMENT  
☐ EMERGENCY MANAGEMENT  
☒ POLICE DEPARTMENT  
☐ SHERIFF'S DEPARTMENT  
☒ CITY BUILDING DEPT.  
☐ COUNTY BUILDING DEPT.  
☒ SCHOOL SYSTEM OPERATIONS  
☐ FT. CAMPBELL

- ☐ DIV. OF GROUND WATER  
☐ HOUSING AUTHORITY  
☐ Other...

**1. CITY ENGINEER/UTILITY DISTRICT:**

1. No Gravity Sewer Available Onsite.

**2. STREET DEPARTMENT/  
COUNTY HIGHWAY DEPARTMENT:**

**1a. COST TO ENGINEER/UTILITY DISTRICT:**

2. Traffic Assessment Submitted. Access Appeal Submitted.  
The Traffic Assessment Submitted Showed No Significant Reduction In Any  
Los For The Intersection.

**3. DRAINAGE COMMENTS:**

**2a. COST TO STREET/HIGHWAY DEPT.:**

3. Sink Hole Onsite.

**4. CDE/CEMC:**

**3a. DRAINAGE COST:**

4. No Comment(s) Received

**5. CHARTER COMM./BELL SOUTH:**

**4a. COST TO CDE/CEMC:**

5.

**5a. COST TO CHARTER AND/OR BELL SOUTH:**

**6. FIRE DEPT/EMERGENCY MGT.:**

6. Comments Received From Department And They Had No Concerns.

**6a. COST FIRE DEPT/EMERGENCY MGT.:**

**7. POLICE DEPT/SHERIFF'S OFFICE:**

7. Comments Received From Department And They Had No Concerns.

**7a. COST TO POLICE DEPT./SHERIFF'S DEPT:**

**8. CITY BUILDING DEPARTMENT/  
COUNTY BUILDING DEPARTMENT:**

8. No Comment(s) Received

**8a. COST TO CITY/COUNTY BLDG. & CODES:**

**9. SCHOOL SYSTEM:**

9.

ELEMENTARY: HAZELWOOD

MIDDLE SCHOOL: WEST CREEK

HIGH SCHOOL: WEST CREEK

**9a. COST TO SCHOOL SYSTEM:**

**10. FT. CAMPBELL:**

10.

**10a. COST TO FT. CAMPBELL:**

**11. OTHER COMMENTS:**

11.



**CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION**

**STAFF REVIEW - ZONING**

**PLANNING STAFF'S STUDY AND RECOMMENDATION**

**1. IMPACT OF PROPOSED USE ON SURROUNDING DEVELOPMENT:** 1. Increased traffic, light & noise.

**2. INFRASTRUCTURE AVAILABLE TO THE SITE:**

- |                           |   |                   |
|---------------------------|---|-------------------|
| <b>a. WATER SOURCE:</b>   | a. <u>City</u>                                | <b>PIPE SIZE:</b> |
| <b>b. SEWER SOURCE:</b>   | b. <u>City</u>                                |                   |
| <b>c. SOIL TYPE:</b>      | c. <u>Pembroke Silt Loam, 5 - 12 %</u>        |                   |
| <b>d. ACCESSIBILITY:</b>  | d. <u>Tiny Town Rd &amp; Barkers Mill Rd.</u> |                   |
| <b>e. DRAINAGE:</b>       | e. <u>Varies</u>                              |                   |
| <b>f. OTHER SERVICES:</b> | f.  |                   |

**3. DEVELOPMENT ESTIMATES:**

**APPLICANT'S ESTIMATES**

**HISTORICAL ESTIMATES**

- a. ESTIMATED LOTS/UNITS:**
- b. ESTIMATED ROAD MILES:**
- c. ESTIMATED POPULATION:**
- d. ESTIMATED ELEMENTARY SCHOOL STUDENTS:**
- e. ESTIMATED MIDDLE SCHOOL STUDENTS:**
- f. ESTIMATED HIGH SCHOOL STUDENTS:**

**4. APPLICABLE COMPREHENSIVE PLAN ELEMENTS:**

Trenton Road Planning Area: The dominant transportation corridor in the area is I-24, strongly supported by Wilma Rudolph Blvd. & 101st Airborne Parkway. Exit 1 I-24 interchange with Trenton Road has seen tremendous growth since 2000.

**5. STAFF RECOMMENDATION:** Approval

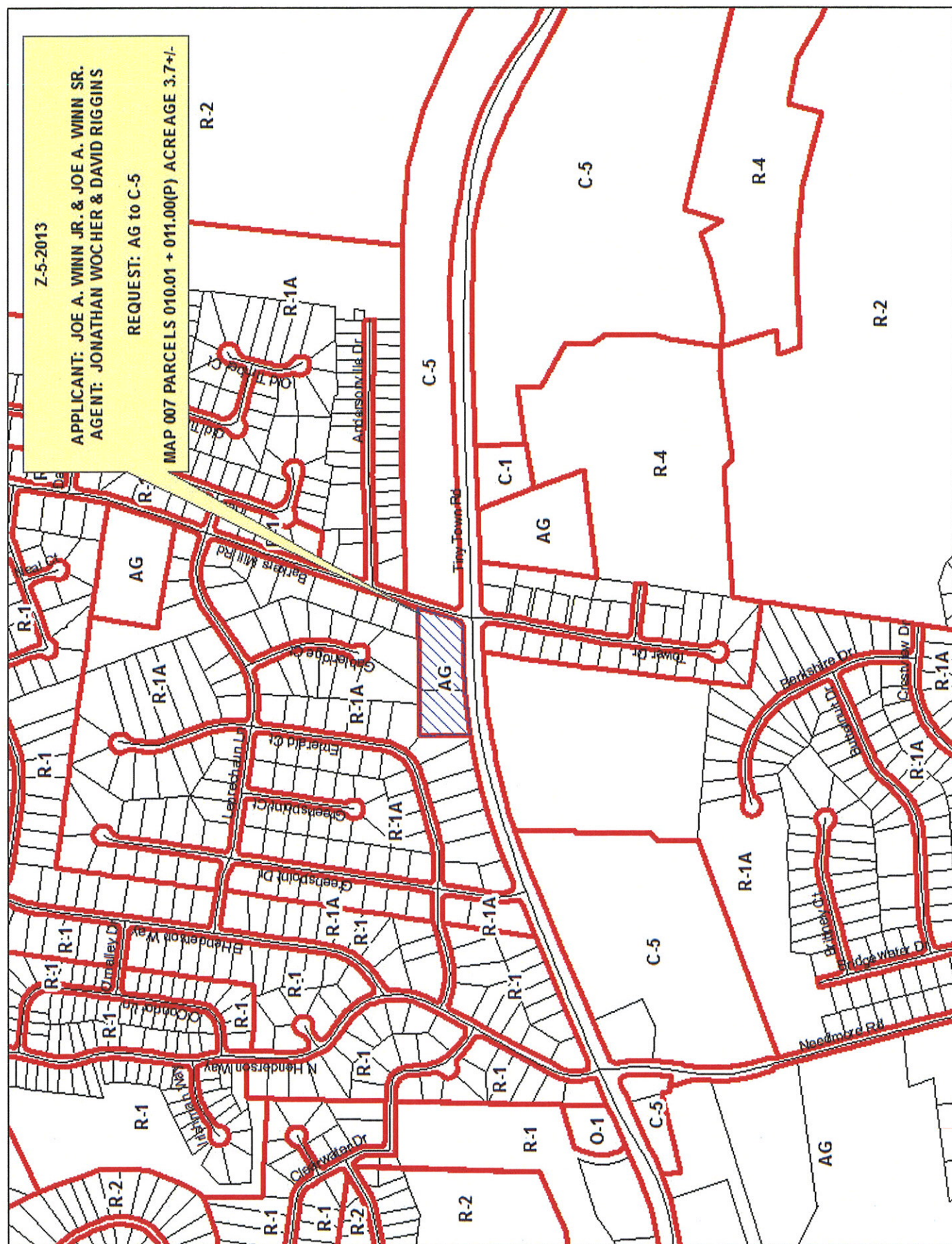
- a. The proposed zoning request is consistent with Growth Plan (as in the City) and adopted Land Use Plan.
- b. Adequate infrastructure serves the site.
- c. No adverse environmental issues were identified relative to this request.
- d. The request is an extension of the C-5 zoning classification to the east and is located at an intersection along a highly traveled arterial, Tiny Town Rd.
- e.



**APPLICANT: JOE A. WINN JR. & JOE A. WINN SR.  
AGENT: JONATHAN WOCHER & DAVID RIGGINS**

**REQUEST: AG to C-5**

MAP 007 PARCELS 010.01 + 011.00(P) ACREAGE 3.7+/-



CASE NUMBER: Z 5 2013 MEETING DATE 3/27/2013

APPLICANT: Joe A. Winn, Jr. /

PRESENT ZONING AG PROPOSED ZONING C-5

TAX PLAT # 007 PARCEL 10.01 & 11.00 (portion)

GEN. LOCATION in the northwest quadrant of the intersection of Tiny Town Rd. & Barkers Mill Rd.

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**PUBLIC COMMENTS**

Steven West, 3525 Canvas Back: gas station in the neighborhood is a bad idea. There will be trash, home values will go down.

ORDINANCE 67-2012-13

AN ORDINANCE AMENDING THE OFFICIAL CODE OF THE CITY OF CLARKSVILLE, TITLE 1 (ADMINISTRATION, OFFICERS AND PERSONNEL), CHAPTER 6 (CODE OF ETHICS), RELATIVE TO ESTABLISHMENT OF AN ETHICS COMMISSION AND ADOPTION OF PROCEDURES FOR RESOLVING ETHICS COMPLAINTS AGAINST CITY COUNCIL MEMBERS, TO INCLUDE THE MAYOR, THE CITY JUDGE, THE CITY ATTORNEY, THE CITY CLERK, THE DIRECTOR OF FINANCE, THE DIRECTOR OF INTERNAL AUDIT, AND VARIOUS DEPARTMENT HEADS

*WHEREAS,* the Clarksville City Council finds the current City Ethics Code is deficient and wholly lacking in setting forth a proper procedure for the resolution of ethics complaints against City Council members, to include the City Mayor, and the City Judge, the City Attorney, the City Clerk, and other various department heads; and

*WHEREAS,* the Clarksville City Council has determined that it is in the best interest of the City of Clarksville and its citizens to amend the City Ethics Code to remedy said deficiencies;

*NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:*

1. That the Official Code of the City of Clarksville, Tennessee, Title 1 (Administration, Officers and Personnel), Chapter 6 (Code of Ethics), Section 1-608 (Ethics Complaints) and Section 1-609 (Violations), are hereby amended by deleting said sections in their entirety, and by substituting instead the following:

**Section 1-608. Reserved.**

**Section 1-609. Reserved.**

**Section 1-610. Ethics Commission – Creation.**

There is hereby established an “Ethics Commission” for the City of Clarksville, Tennessee.

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

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

*b. 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.

*b. 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) 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 other such member shall serve an initial term of one (1) year.

(3) If any member, ceases to be a resident of the City of Clarksville, or qualifies as a candidate for any public office, or is elected or appointed to any public office other than a member of any federal military reserve or state national guard force while not on active duty, or accepts employment with or for any governmental entity other than a member of any federal military reserve or state national guard force while not on active duty, or refuses to continue service on, resigns from, or otherwise ceases to be a member of the Ethics Commission for any reason before the expiration of his or her term, or fails to attend and participate in at least three consecutive meetings or fails to attend at least two-thirds of all properly called meetings of the Ethics Commission within any calendar year period, a new member shall be appointed by the Mayor, subject to City Council approval, to serve the remainder of the former member's unexpired term. Service during any unexpired term shall count as a term for the purpose of computing the limit on consecutive terms.

**Section 1-612. Ethics Commission; Member Compensation.**

Members of the Ethics Commission shall not receive any monetary compensation for their service on the Commission.

**Section 1-613. Ethics Commission; Officers.**

The members of the Ethics Commission shall elect officers for the Commission. One member shall be elected to serve as Chairman of the Commission; one member to serve as Vice-Chairman of the Commission; and one member to serve as Secretary for the Commission. Officers may not hold more than one office on the Commission at the same time. Officers shall hold office for one (1) year periods. The City Clerk shall serve as custodian of records for the Commission. The City Attorney shall provide legal advice to the Commission as may be required, and may select outside counsel to provide advice in cases where the City Attorney determines he has a conflict of interest or as he may otherwise determine is required.

**Section 1-614. Ethics Commission; By-laws.**

The Commission shall adopt and make public by-laws to govern the dates, times, and places for meetings, rules of procedure not otherwise inconsistent with the provisions herein, and any other matters appropriately addressed therein.

**Section 1-615. Ethics Commission; Removal of Members.**

Any member of the Ethics Commission may be removed as a member of the Commission prior to the expiration of their term in cases of permanent disability, or misfeasance, malfeasance, or nonfeasance in relation to their duties as a member of the Commission, or for other just cause, by resolution approved by a three-fourths (3/4) majority vote of the City Council. Prior to any such vote on removal of any member from the Commission, said member shall have an opportunity to be heard on the issue of their removal in person, through counsel, and / or by submission of relevant written or other evidentiary materials, and may cross examine any witnesses against them who shall be required to testify under oath, and may request the City Council to issue a subpoena compelling the attendance and testimony under oath of any witnesses with relevant knowledge as to any material issue, but the City Council may deny said request upon a majority vote. The date, time and place for said hearing, and the requirements for submission of the resolution for removal to the City Council, shall be the same as and in accordance with the requirements for consideration of other legislative matters as set forth in the City Code.

**Section 1-617. Ethics Commission; Open Records and Open Meetings.**

All records of the Ethics Commission shall be open and subject to public inspection in accordance with the Tennessee "Open Records" law, Tenn. Code Ann. Section 10-7-503, et seq., as same may be amended from time to time; and all meetings of the Commission shall comply with the Tennessee "Open Meetings" law, Tenn. Code Ann. Section 8-44-101, et seq., as same may be amended from time to time.

**Section 1-618. Ethics Commission; No Authority to Contract or Obligate City.**

The Ethics Commission shall have no authority to contract or be contracted with or to bind or obligate the City in any way and shall not have authority to appropriate City funds for any purpose.

**Section 1-619. Ethics Commission; Jurisdiction.**

The Ethics Commission shall have jurisdiction over all ethics complaints made against any member or members of the City Council, to include the Mayor, the City Judge, the City Attorney, the City Clerk, the Director of Finance, the Director of Internal Audit, and all other department heads of the City, as well as all members of any City boards, commissions, authorities, or other like body established by the City, including entities having a separate corporate or other legal existence other than those that have their own ethics policy. The determination as to whether any individual is a department head shall be determined by the Director of the Department of Human Resources, in consultation with the City Attorney.

**Section 1-620. Ethics Commission; Duties.**

The Ethics Commission shall have the following duties:

- a. To receive ethics complaints within its jurisdiction, and to hold hearings and conduct investigations in connection therewith as may be required pursuant to the provisions herein; and
- b. To make recommendations regarding any alleged ethics complaints within the jurisdiction of the Ethics Commission as provided herein; and
- c. To maintain records of its investigations, inquiries and proceedings.

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

a. *Complaint procedures:*

- (1) Any individual real person may submit an ethics complaint alleging that any one or more City of Clarksville officials, whether elected or appointed, or an employee, have violated the Code of Ethics.
- (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



(b) the name of any person or persons who are alleged to have committed an ethics violation; and

(c) a brief summary of the facts giving rise to the alleged ethics complaint; and,

(d) an explanation of why those facts allegedly constitute a violation of the City Code of Ethics (which may include citation to specific sections and / subsections).

(3) Any ethics complaint that does not contain the above requirements shall not be considered, except that upon receipt of any deficient ethics complaint, the City Attorney may, but is not required to, contact the complainant to inform them of the deficiency, whereupon the complainant may have a reasonable time, not to exceed ten days, within which to submit an amended complaint meeting the requirements herein.

(4) All ethics complaints shall first be filed with the City Clerk. Upon receipt, the City Clerk shall annotate the date and time of receipt on the ethics complaint, and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints and showing the name of the person making the complaint, the date and time of receipt of the ethics complaint, and the name(s) of the person or persons against whom the complaint is made, and any other information that will enable the City Clerk to keep accurate records pertaining to ethics complaints. The City Clerk will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made, and to the City Attorney.

(5) The City Attorney shall determine if the ethics complaint is made against a person within the jurisdiction of the Ethics Commission, except for any ethics complaint alleged against the City Attorney, which shall always be provided by the City Clerk to the Ethics Commission for action. If the ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the City Clerk shall also provide a copy of the ethics complaint to the Ethics Commission for action as set forth herein. If the ethics complaint does not allege an ethics violation against any person within the jurisdiction of the Ethics Commission, but against one or more employees not within the jurisdiction of the Ethics Commission, then the City Attorney shall inquire into the matter, conduct such investigation as he deems appropriate, and make a determination as to the merits of the alleged ethics complaint, and make a recommendation to the department head of any department in which the employee works regarding his findings, and a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through

any means deemed appropriate by the City Attorney, and to make any recommendation regarding any disciplinary action against the employee. The decision to impose disciplinary action, if any, shall be made by the department head, in accordance with the provisions of the City Code pertaining to personnel and disciplinary action.

(6) If an ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the Ethics Commission, upon receipt of the ethics complaint from the City Clerk, shall thereupon take action as provided herein.

(a) The chairman of the Ethics Commission shall call a meeting of the Commission, which meeting shall be open to and noticed to the public. The City Clerk shall also provide notice of the meeting to the complainant, and to the person(s) alleged to be in violation of the ethics code and named in the ethics complaint.

(b) At the Commission meeting, the Commission shall evaluate the allegations of the ethics complaint, and make a determination as to whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the Commission determines that the alleged facts, even if true, would not be a violation of the ethics code, the Commission may dismiss the complaint, or may request additional information from the complainant, or any other person the Commission deems to have material information, in its sole discretion, to determine whether a hearing should be held to determine the merits of the ethics complaint. If the Commission determines that the alleged facts, if true, could constitute a violation of the ethics code, then the Commission shall hold a hearing to determine whether the ethics complaint has merit.

*b. Hearing procedures:*

(1) If the Ethics Commission determines that a hearing should be held on an ethics complaint, the hearing shall be conducted as follows:

(a) The hearing shall be noticed to and open to the public; and

(b) Notice of the hearing shall be provided to the complainant and to the elected or appointed official(s) named in the complaint (together, the "parties"); and

(c) The parties may, but are not required to, submit evidentiary material to the Commission. If a party does wish to submit such evidentiary material to the Commission, the party must file the material with the City Clerk, with a copy to the City Attorney, and provide a copy of the same to the other parties, at least

seven calendar days prior to the hearing, unless, for good cause shown, the Commission amends the time requirement. The City Clerk shall provide a copy of all evidentiary materials to the Commission members.

(d) The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the Commission at the hearing. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

(e) Each party shall have the right to represent themselves, and to have the assistance of legal counsel at their own expense, but may not be represented by non-attorneys.

(f) All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses shall be subject to cross-examination.

(g) Each party must file with the City Clerk, and provide a copy of same to the City Attorney, a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the Commission may permit such an unlisted witness to be called by a party, if in the Commission's discretion, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

(h) Commission members may ask questions of any party, counsel, or witness at any time during the hearing, but the Chairman shall conduct the hearing and determine the order in which Commission members may pose questions.

(i) The committee may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party, and upon majority vote of the members, may cause the City Clerk to issue subpoenas for documents and things or for testimony of persons within the jurisdiction of the City to the maximum extent permitted by law.

(j) The committee may continue any hearing to a later date.

(k) The City Attorney, or an attorney appointed by the City Attorney, shall be present during the hearing to advise the Commission as may be necessary on all legal issues.

c. *Decision to be in Writing.* Whether or not the Commission holds a hearing on the ethics complaint, or dismisses the complaint, it shall issue a decision in writing. If the Commission holds a hearing on the ethics complaint, it shall state in writing whether it finds the ethics complaint to have merit, and if so, which section and subsection as applicable of the ethics code has been violated and by whom.

d. *Vote Required to Find Violation; Burden of Proof.* Any decision of the Commission finding an ethics complaint to have merit shall require the affirmative vote of at least four (4) members of the Commission. The complainant shall bear the burden of proof to prove a violation by a preponderance of the evidence, and the person alleged to have violated the ethics code shall not be required to prove the absence of a violation.

e. *Prohibition on Outside Communications.* Once an ethics complaint has been received by the members of the Commission, and until a written decision has been issued by the Commission, no member of the Commission shall participate in any communication regarding the allegations or merits of the complaint, outside of the Commission's public meetings or hearings.

f. *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.

#### **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 of its members:

(1) Report to the City Council that a determination has been made that the Code of Ethics has been violated, setting forth which section and subsection, as applicable, of the ethics code has been violated and by whom. The Ethics Commission may also make recommendations to the City Council regarding any

appropriate remedial action, including censure, that the City Council should consider; and / or

(2) Make a recommendation to the violator that he or she resign from their respective position; and / or

(3) Make a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation regarding any disciplinary action against the employee.

(4) Refer the matter to the City Attorney with a request that appropriate civil action be instituted by the City of Clarksville for restitution, and / or for such other relief as the Commission deems appropriate, and/or a request that the City Attorney refer the matter to the local District Attorney General, or other state or federal law enforcement authority, for appropriate action under general criminal law.

<i>POSTPONED:</i>	January 29, 2013, to March Regular Session
<i>FIRST READING:</i>	March 7, 2013
<i>SECOND READING:</i>	
<i>EFFECTIVE DATE:</i>	

ORDINANCE 73-2012-13

AMENDING THE ZONING ORDINANCE AND MAP OF THE CITY OF CLARKSVILLE, APPLICATION OF JEFF BURKHAT FOR ZONE CHANGE ON PROPERTY AT TRENTON ROAD AND KENNEDY ROAD

*BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:*

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned AG Agricultural District, as R-2 Single Family Residential District.

*PUBLIC HEARING:* March 7, 2013

*FIRST READING:* March 7, 2013

*SECOND READING:*

*EFFECTIVE DATE:*

EXHIBIT A

Being part of Henry Hillman fifty acres tract and now known as the Home tract. Beginning at the southwest corner on the east side of the Trenton pike, thence north 86 3/4 degrees east, 978 feet, to corner with Hillman, thence north 3 1/2 degrees to corner with Hillman, thence north 3 1/2 degrees east 1053 feet to H.N. Meriwether line, thence south 86 3/4 degrees, west, with N.H. Meriwether, 978 feet, to east side of Trenton Pike, thence with Trenton Pike, south 3 1/2, degrees west, 1053 feet, to beginning containing 22 1/2 more or less, (Tax Map 017 Parcel 039.01) (AG to R-2)



ORDINANCE 74-2012-13

AN ORDINANCE AMENDING THE CITY ZONING ORDINANCE AND THE OFFICIAL CODE OF THE CITY OF CLARKSVILLE RELATIVE TO CLUSTER OPTION DEVELOPMENTS

*BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE THAT THE FOLLOWING AMENDMENTS ARE HEREBY MADE TO THE CLARKSVILLE CITY ZONING ORDINANCE:*

1. Under Chapter 2 “Rules and Interpretation and Definitions”, Section 2 “Definitions” is hereby amended by deleting the language for “*Perimeter Lots:*” definition in its entirety and by substituting instead the following:

*Perimeter Lot:* A lot abutting the exterior boundary of any plot, parcel, tract or subdivision of land. In the context of a Residential Cluster Development per Section 5.9, the exterior lots of a proposed residential cluster development that adjoin the perimeter boundary of the subject tract or are adjacent to any landscape buffer on the boundary of the subject tract.

2. Under Chapter 5 “Land use Development Standards and Procedures”, Section 9 “Standards and Procedures For Residential Cluster Developments”, is hereby amended by deleting the section in its entirety and by substituting instead the following:

The intent of this Section is (a) to facilitate the development of tracts with environmental constraints at densities comparable to tracts without environmental limitations, and/or (b) to permit greater flexibility for creative design and/or (c) to achieve superior scenic quality and recreational opportunities close to home, by providing for residential subdivisions which incorporate permanent local open space accessible to all residential lots within the subject tract. It is the intent of this Section to allow the use of cluster development techniques in the AG, E-1, E-1A, R-1, R-1A, R-2 and R-2A single family residential zoning classifications. These provisions allow individual lot and yard requirements to be reduced to permit closer grouping or "clustering" of homes on a portion of a tract while the balance of the tract is preserved as open space. This is in contrast to a conventional subdivision where homes are more or less evenly spaced throughout a site and there is no reserved open space. The minimum number of lots for the application of this Residential Cluster Development option shall be ten (10) lots for any preliminary or final plat.

**1. Initial Sketch and Consultation.** Before preparing a formal proposal for a residential cluster development, the applicant shall submit a sketch of the proposed development to the Regional Planning Commission staff as a basis for reaching general agreement on major aspects of the project. The sketch shall indicate, at a scale no smaller than one (1) inch = one hundred (100) feet, the following:

- A. Boundaries and acreage of the site;
- B. Number of proposed dwelling units;
- C. Acreage available for open space and prospective uses of open space;
- D. Arrangement of streets, structures, and lots;

- E. Access to existing streets;
- F. Show any proposed improvements to the open space;
- G. State intended minimum lot size.

2. **Plat Approval Procedure.** Proposals for cluster residential developments shall be subject to the Clarksville/Montgomery County Subdivision Regulations, and shall be prepared and reviewed under the plat approval requirements of the regulations, and shall be in accordance with the provisions of this Section.

- A. The preliminary plat shall indicate that the clustering is proposed and display the layout and area of all lots and common areas and all phasing boundaries. Within a preliminary plan of subdivision, large contiguous areas may be proposed for development of single-family lots that contain less land area than normally required by the base zone classification of the subject tract.
- B. A master plan for the entire tract shall be required for preliminary plat approval. If an approved cluster development is abandoned before completion, no new preliminary plat for the tract will be approved until the minimum required open space for the completed portion of the cluster subdivision is dedicated.
- C. The developer shall submit a written and/or graphic documentation that describes how the required open space will be dedicated and maintained; such statement will be adopted with the preliminary plat and shall be enforced by the Regional Planning Commission.
- D. Draft copies of restrictive covenants and a Homeowners Association agreement shall be submitted prior to preliminary plat approval.

3. **Development Requirements.**

- A. Only single-family residential detached structures and accessory structures (including, but not limited to, garages, clubhouses, pavilions, swimming pools, walkways, trails, bikeways, playgrounds, and other recreation facilities for the enjoyment of the residents) may be constructed in a cluster development.
- B. Minimum lot size requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
  - I. AG (Agricultural District): Thirty Thousand (30,000) square feet.
  - II. E-1 (Estates District): Twenty-Five Thousand (25,000) square feet.
  - III. E-1A (Single Family Estates District): Twenty Thousand (20,000) square feet.
  - IV. R-1 (Single Family Residential District): Five Thousand (5,000) square feet.

- V. R-1A (Single Family Residential District): Five Thousand (5,000) square feet.
  - VI. R-2 (Single Family Residential District): Five Thousand (5,000) square feet.
  - VII. R-2A (Single Family Residential District): Five Thousand (5,000) square feet.
- C. Minimum lot width requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
- I. AG (Agricultural District): Seventy-Five (75) feet at the front setback line.
  - II. E-1 (Estate District): Seventy-Five (75) feet at the front setback line.
  - III. E-1 A (Single Family Estates District): Sixty (60) feet at the front setback line.
  - IV. R-1 (Single Family Residential District): No Minimum.
  - V. R-1A (Single Family Residential District): No Minimum.
  - VI. R-2 (Single Family Residential District): No Minimum.
  - VII. R-2A (Single Family Residential District): No Minimum.
- D. With the exception of existing rights-of-way the minimum front yard setback may be twenty-five (25) feet from the nearest right-of-way, unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.
- E. The minimum side yard setback requirements, for principal uses and unattached buildings of accessory use, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:
- I. AG (Agricultural District): Same as respective districts.
  - II. E-1 (Estate District): Same as respective districts.
  - III. E-1A (Single Family Estate District): Same as respective districts.
  - IV. R-1 (Single Family Residential District): Five-foot minimum on both sides.\*
  - V. R-1A (Single Family Residential District): Five-foot minimum on both sides.\*
  - VI. R-2 (Single Family Residential District): Five-foot minimum on both sides.\*
  - VII. R-2A (Single Family Residential District): Five-foot minimum on both sides.\*

\*unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.

- F. Unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement, the minimum rear yard setback requirements (excluding the landscape buffer of any perimeter lot) for principal uses, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:
  - I. AG (Agricultural District): Twenty (20) minimum.
  - II. E-1 (Estate District): Twenty (20) minimum.
  - III. E-1A (Single Family Estates District): Twenty (20) minimum.
  - IV. R-1 (Single Family Residential District): Twenty (20) minimum.
  - V. R-1A (Single Family Residential District): Twenty (20) minimum.
  - VI. R-2 (Single Family Residential District): Twenty (20) minimum.
  - VII. R-2A (Single Family Residential District): Twenty (20) minimum.
- G. Perimeter lots that adjoin an existing street that is maintained by the City Street Department, the County Highway Department, or the Tennessee Department of Transportation shall have driveway access from an internal street only.
- H. Perimeter lots may be reduced in size the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less, unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot size may be reduced to that of Subsection 5.9.3.B.
- I. The lot width for perimeter lots may be reduced the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot width may be reduced to that of Subsection 5.9.3.C.
- J. Perimeter Lots shall meet the perimeter lot requirements of Subsections 5.9.3.H and 5.9.3.I, unless the following buffering provisions have been provided, such that the minimum requirements may be reduced to that of Subsections 5.9.3.B, 5.9.3.C, 5.9.3.E and 5.9.3.F:
  - I. A landscape buffer, adjacent to the perimeter boundary of the subject tract, shall have a minimum width of twenty-five (25) feet and a maximum width of thirty-five (35) feet. The existing landscape buffer must consist of a minimum of sixteen (16) trees with a caliper of six (6) inches or greater every one hundred (100) linear feet, or;
  - II. If supplemental plantings are required to meet the minimum density, additional plantings shall consist of the following:
    - a. A minimum of two (2) inch caliper at the time of planting;

- b. Six (6) feet in height at the time of planting;
- c. Fifty (50) percent evergreen.

III. The landscape buffer shall be in reserved open space dedicated to the Homeowners' Association for preservation and maintenance, and shall not be included in whole or part as part of any perimeter or interior lot under private ownership on which a single-family structure may be built.

- K. The determination of lot yield shall be determined by deducting fifteen (15) percent from the gross land area and dividing the remaining eighty-five (85) percent of the gross land area by the minimum lot area of the base zone classification of the subject tract.
- L. Utilization of alternative lot sizes includes a requirement for the creation of common open space. Open space shall be provided at the rate of fifteen (15) percent for the entire master plan. Open space must be for the common use of all residents within a residential cluster development, and shall be for amenity or recreational purposes and may include sidewalks, and walking trails, but shall not include streets and parking areas as part of the fifteen (15) percent for open space.
- M. No more than fifty (50) percent of the required open space may include areas located within a 100 year floodplain and/or drainage easement created by the development, this excludes FEMA designated floodplains.
- N. Open space must be provided within each phase of the development, unless the subdivider provides sufficient open space in the first phase to cover all subsequent phases in the tract subject to preliminary subdivision approval. Such open space should be accessible to each phase of development.
- O. The minimum width of open space including all points of access to the public right-of-way shall not be less than twenty-five (25) feet. Where greater road frontage is required by the subject tract's base zone classification, the greater amount shall apply.
- P. For developments located in more than one (1) zoning district, the density shall be computed separately for that portion of the development lying within each district. No development density may be transferred across zoning district boundaries.
- Q. Flag lots are prohibited. A flag lot generally contains a narrow strip of property leading from a right-of-way to the building site which is generally located to the rear of other lot(s) fronting along the same right-of-way.
- R. All meters, HVAC units, and other structures and attachments are prohibited within the side yard drainage/utility easement.
- S. All driveways must be constructed of dustless materials.
- T. If determination cannot be made concerning setback compliance, the Building and Codes Department may require sufficient evidence from the builder that foundations are in compliance.

- U. The minimum public road frontage requirements shall be as stated in their respective districts.
- V. Sidewalks shall be required and shall meet all regulations of the City of Clarksville and Americans with Disabilities Act (ADA).
- W. Sidewalks shall be shown and labeled on the construction plans and final recorded plat.
- X. Underground utilities are mandatory.
- Y. Within cluster developments, fire hydrants shall be spaced a maximum of three hundred (300) to eight hundred (800) feet apart. Spacing of fire hydrants shall be determined by the City Fire Marshal, on a case by case basis.
- Z. The exceptions allowed by Paragraph 4.1.1.2 shall not apply to this section with the exception of Subparagraph (F). Overhanging roof, eaves, gutters, cornices, or other architectural features, shall not exceed eighteen (18) inches.
- AA. Exterior walls located eight (8) or less feet from the property line will have a water/fire resistant gypsum wall board of a minimum 5/8" Type X (or equivalent) on the outside of the exterior wall. This wall board will serve as an underlayment for the exterior siding material. Homes that have continuous exterior soffit will have the wall board run continuous to the roof deck (or fire blocked) and be sealed against the deck to prevent the movement of air into the attic space.
- AB. The following information shall be shown on the final recorded plat, but not limited to:
  - I. Responsible entity for the maintenance of the open space(s);
  - II. Prior to obtaining the signature of the Regional Planning Commission's Secretary, the volume and page number for the covenants and Homeowners Association agreement shall be added to the final recorded plat within the certificate of ownership and dedication block.

#### **4. Legal Requirements for Operation and Maintenance**

- A. Open space must be deeded to a Homeowners Association of the development and the developer shall provide the following recorded documentation before final plat approval. In the event final plat approval is not granted by the Regional Planning Commission, the following recorded documentation will become null and void:
  - I. That the Homeowners Association will be responsible for liability insurance, local taxes, and maintenance of recreational, drainage structures, or other facilities pertaining to the open space.
  - II. Restrictive covenants shall require mandatory membership in the Homeowners Association, and include as a minimum the following provisions:



- a. Responsibility for paying a pro-rated share of the cost of the Homeowners Association operation.
  - b. Agreement that the assessment levied by the Association can become a lien on the property if not paid.
  - c. Agreement that the association shall be able to adjust the assessment to meet the changing needs.
  - d. Guarantee of permanent unrestricted right to utilize lands and facilities owned by the Association.
- III. The Homeowners Association shall be incorporated.
- IV. In the event of dissolution of the Homeowners Association for any reason whether administrative or otherwise, responsibility for maintenance of all common areas shall become that of the individual lot owners within the subdivision on a pro-rata basis based on the number of lots within the subdivision, or if the restrictive covenants for the subdivision so provide any one or more lot owners within the subdivision, may re-form the Homeowners Association and assess each lot equally for the amount necessary to maintain said open space. In the event of failure of either of the above remedies the City may, upon giving proper notice to each property owner, bring such open space in compliance, and place a lien on all lot owners within the subdivision for their pro-rata share of the cost, plus any administrative fees. In the event of failure of the association to pay any taxes assessed to the common areas, such taxes shall attach to each lot within the subdivision on a pro-rata basis based on the number of lots within the subdivision.

## 5. Definitions

- A. *Amenity* means a natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or areas.
- B. *Environmental Constraints* mean geological, topographic, and built or natural environmental features that place significant constraints on the development of property. These features include, but are not limited to, steep slopes, rock outcroppings, shallow depth to bedrock, floodplains and bodies of water, wetlands and swamps, shallow water tables, sinkholes and other karst features (springs, caves and depressions), woodlands and forests, significant natural wildlife areas, historic buildings and structures, archeological artifacts and sites, noise from transportation facilities (such as airports, railroads and interstates) and similar significant environmental areas.
- C. *Open Space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for private use or enjoyment or for the use and enjoyment of owner's, occupants, and their guests of land adjoining or

neighboring such open space.

- D. *Perimeter Lot* means the exterior lots of a proposed residential cluster development that adjoin the perimeter boundary of the subject tract or are adjacent to any landscape buffer on the boundary of the subject tract.
- E. *Places Of Assembly*: The use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social, or religious functions, recreation, food or drink consumption, or awaiting transportation.
- F. *Recreation Facility, Private* means a recreational facility for use solely by the residents and guests of a particular residential development and operated by a nonprofit organization.

*PUBLIC HEARING:* March 7, 2013

*FIRST READING:* March 7, 2013

*SECOND READING:*

*EFFECTIVE DATE:*

RESOLUTION 40-2012-13

A RESOLUTION APPROVING A RETAIL LIQUOR STORE CERTIFICATE OF COMPLIANCE FOR WILLIAM AND KATHERINE BEACH

*WHEREAS*, William and Katherine Beach have applied for a Certificate of Compliance from the City of Clarksville according to regulations of the Tennessee Alcoholic Beverage Commission, for the operation of Riverbend Wine & Spirits located at 1206 Highway 48; and

*WHEREAS*, the applicant(s) who is/are to be in actual charge of said business has/have not been convicted of a felony within a ten year period immediately preceding the date of the application and, if a corporation, that the executive officers, or those in control, have not been convicted of a felony within a ten year period immediately preceding the date of the application; and further that it is the undersigned's opinion that the applicant will not violate any provisions of *Tennessee Code Annotated, Title 57, Chapter 3*;

*WHEREAS*, the applicant(s) has/have secured a location which complies with all restrictions of the laws, ordinances, or resolutions;

*WHEREAS*, the applicant(s)s has/have complied with the residency provision;

*WHEREAS*, the issuance of this license will not exceed the numerical limit established in City Code Sec. 2-205.

*BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:*

That the Clarksville City Council hereby approves a Certificate of Compliance for William and Katherine Beach for operation of Riverbend Wine & Spirits located at 1206 Highway 48, Clarksville, Tennessee 37040.

*ADOPTED:*



## **CLARKSVILLE CITY COUNCIL SPECIAL SESSION MARCH 11, 2013**

### **MINUTES**

#### **CALL TO ORDER**

A special session of the Clarksville City Council was called to order by Mayor Kim McMillan on Monday, March 11, 2013, at 5:04 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 Geno Grubbs.

#### **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; left at 5:55 p.m.)

#### **SPECIAL RECOGNITION**

Mayor McMillan proclaimed March 11-15, 2013, as Multiple Sclerosis Awareness Week.

#### **CITY HALL AIR CONDITIONING SYSTEM**

**ORDINANCE 72-2012-13** (Second Reading) Amending the FY13 General Fund and Capital Projects Budget for the City Hall air conditioning system

Councilman Steward made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Harris.

In response to Councilman Allen's question, Jerry Miller, Siemens Account Executive, said non-use or disposal of any buildings with lighting improvements during the term of the loan would affect the overall energy savings. Because a

bond agreement had not been drafted, Interim Finance Director Debbie Frazier said she could not determine how the bond requirements would be affected if some buildings were not used or disposed of.

Councilwoman Jones said the equipment and supplies provided for this project would be outdated by the end of the loan term. Councilwoman Jones made a motion to postpone second reading until the July regular session, which would be after the FY14 Budget is adopted, to allow time acquire additional information. The motion was seconded by Councilman Steward. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Steward, Summers

NAY: Burkhardt, Grubbs, Guzman, Harris, Lewis, Redd, Wallace

The motion to postpone failed. In response to Councilman Burkhardt's question, Mrs. Frazier said this ordinance would provide funding for the project, but would not obligate the City to a bond issue.

Councilwoman McLaughlin made a motion to amend the ordinance from \$1,007,585 to a total of \$194,000 for purchase of a new energy-efficient chiller only and said this amount could be added to the currently appropriated \$190,000. The motion was seconded by Councilman Steward. During this discussion, Project Manager Hatem Shah said if the lighting upgrades were eliminated from the project, the City would not be eligible for the interest-free loan. Councilman Allen called for the question. The question was seconded by Councilman Lewis. The following vote was recorded:

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

NAY: Summers

NOTE: Councilman Burkhardt was not present for this vote.

The motion to cease discussion on the amendment passed. The following vote was recorded:

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

NAY: Grubbs, Guzman, Harris, Lewis, McMillan

NOTE: Councilman Burkhardt was not present for this vote.

Councilwoman McLaughlin's amendment passed. Following a five-minute recess, Mrs. Frazier said this amendment would leave an adequate fund balance of 22%. The following vote on the original motion as amended was recorded:

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

NAY: Grubbs, Guzman, Harris, Lewis, McMillan, Redd

NOTE: Councilman Burkhardt was not present for this vote.

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

#### ADJOURNMENT

The meeting was adjourned at 6:12 p.m.





**CITY COUNCIL  
CLARKSVILLE, TENNESSEE  
REGULAR SESSION**

**MARCH 7, 2013**

**MINUTES**

**CALL TO ORDER**

The regular session of the Clarksville City Council was called to order by Mayor Kim McMillan on Thursday, March 7, 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 Geno Grubbs.

**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)

**SPECIAL RECOGNITIONS**

Mayor McMillan presented a Mayor's Certificate of Recognition to members of the New Providence Middle School Math Team for winning the Clarksville-Montgomery County School System's "Sweepstakes Championship" system-wide math tournament.

**PUBLIC HEARING**

Councilman Grubbs made a motion to conduct a public hearing to consider requests for zone changes and code amendments. The motion was seconded by Councilman Lewis. A voice vote was taken; the motion passed without objection.

**ORDINANCE 73-2012-13** (First 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

Stanley Ross, attorney on behalf of Councilman Burkhart, said the zone change would create approximately 66 lots and said traffic on Trenton Road would not be affected. There was no expressed opposition to this request.

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

There was no expressed support for this change. Rachel Rutland said changes to the criteria for the cluster option should create a balance of the needs of adjacent homeowners, developers, and the City.

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

Based on the recommendations of the Regional Planning Staff and Commission, Councilman Grubbs made a motion to adopt **ORDINANCE 73-2012-13** on first reading. The motion was seconded by Councilman Redd. Councilman Steward, Councilwoman Jones, Councilman Allen, and Councilwoman McLaughlin opposed additional development in the area until the State of Tennessee makes improvements to Trenton Road. 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 first reading passed.

Based on the recommendations of the Regional Planning Staff and Commission, Councilman Grubbs made a motion to adopt **ORDINANCE 74-2012-13** on first reading. The motion was seconded by Councilman Redd. Councilwoman McLaughlin made a motion to refer this ordinance back to the Regional Planning Commission to add language to require cluster developments to be approved by the City Council. The motion was seconded by Councilman Lewis. Following discussion, Mayor McMillan agreed to consider Councilwoman McLaughlin's request to schedule a special session to allow her to introduce a resolution to ask that new language be considered by the Regional Planning Commission; there was no objection to withdrawal of the motion to refer. Councilman Steward called for the question. The question was seconded by Councilman Lewis. A voice vote was taken; the motion passed without objection. The following vote on the original motion was recorded:

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

NAY: Allen

The motion to adopt this ordinance on first reading passed.

## CITY HALL AIR CONDITIONING SYSTEM

The following resolution and ordinance were presented as New Business and were considered, without objection, following zoning.

**ORDINANCE 72-2012-13** (First Reading) Amending the FY13 General Fund and Capital Projects Budget for the City Hall air conditioning system

Councilman Wallace made a motion to adopt **ORDINANCE 72-2012-13** on first reading. The motion was seconded by Councilman Grubbs.

Interim Director of Finance Debbie Frazier said the urgency in this matter was to get delivery of the chiller before hot weather. In response to Councilman Summers' question, Mrs. Frazier said the Department of Electricity would pay for the lighting utility portion of the debt service. She introduced Josh McCoy, PFM Financial Advisor, and Kirk Whittington, Siemens Business Development & Energy Solutions. Mr. Whittington said a chiller comparable to the existing unit would have a life-span of approximately 15 years, and a new energy-efficient chiller would last approximately 25 years with added energy savings. He said with regard to the building lighting portion of the project, the proposed fixtures would provide higher wattage than the existing lighting.

Councilwoman McLaughlin agreed with Councilman Summers regarding the local economy and felt the lighting portion of the project should be eliminated.

Councilman Lewis called for the question. The question was seconded by Councilman Steward. A voice vote was taken; with some objection, the motion to cease discussion passed. The following vote on the original motion was recorded:

AYE: Burkhardt, Grubbs, Guzman, Harris, Lewis, McMillan, Wallace'

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

The motion to adopt this ordinance on first reading passed.

**RESOLUTION 37-2012-13** Declaring intent to reimburse proceeds for expenses related to certain public works projects

Councilman Wallace made a motion to adopt this resolution. The motion was seconded by Councilman Grubbs. The following vote was recorded:

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

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

The motion to adopt this resolution passed.

## 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 63-2012-13** (Second Reading) Authorizing extension of utilities to property on Highway 76; request of Ronnie Powers
2. **ORDINANCE 64-2012-13** (Second Reading) Authorizing extension of utilities to property on Rossvie Road; request of B & S Development
3. **ORDINANCE 65-2012-13** (Second Reading) Amending the FY13 Information Technology Operating Budget for email archiving system upgrade
4. **ORDINANCE 66-2012-13** (Second Reading) Authorizing purchase of property on Chestnut Street for Community Development
5. **ORDINANCE 68-2012-13** (Second Reading) Establishing the Occupational Safety and Health Program
6. **ORDINANCE 69-2012-13** (Second Reading) Accepting donation of property from In-Rel Development for the Clarksville Greenway
7. **ORDINANCE 70-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Herbert E. Baggett, Jr., for zone change on property at the terminus of Poplar Court from R-3 Three Family Residential District to R-2 Single Family Residential District
8. **ORDINANCE 71-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Richard E. Stone, Jr., Executor, Jason Daugherty-Agent, for zone change on property at Ringgold Road and Ringgold Court from R-1 Single Family Residential District to R-4 Multiple Family Residential District
9. **RESOLUTION 38-2012-13** Approving a Certificate of Compliance for Jack G. Miller (Sango Wine & Spirits, 1049 Highway 76)
10. Approval of Minutes: Special Session January 29, Regular Session February 7
11. Approval of Board Appointments:

Human Relations Commission: Mohsun Uddin Ghias, Johnny Jones, Mercedes Acuna – March 2013 through June 2013

Residential Development Commission: Valerie Guzman – March 2013 through December 2013

Councilman Lewis made a motion to adopt the Consent Agenda. The motion was seconded by Councilman Redd. Councilwoman McLaughlin registered a “nay” vote on Item #8, **ORDINANCE 71-2012-13**. 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 passed.

#### COMMUNITY DEVELOPMENT COMMITTEE

*David Allen, Chair*

Councilman Allen said the Tennessee Housing Development Agency approved an application for the Emergency Solutions Grant in the amount of \$193,848; \$130,000 appropriated for Community Action Agency and \$55,000 appropriated for Urban Ministries to assist individuals experiencing homelessness or housing crisis situations.

#### FINANCE COMMITTEE

*Joel Wallace, Chair*

**RESOLUTION 36-2012-13** Authorizing members of the TCRS who have one year or more of current membership service in the retirement system to establish retirement credit for time during which such members were employed by a political subdivision

Based on the recommendation of the Finance Committee, Councilwoman Wallace made a motion to adopt this resolution. The motion was seconded by Councilman Grubbs. The following vote was recorded:

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

The motion to adopt this resolution passed.

#### GAS & WATER COMMITTEE

*Jeff Burkhart, Chair*

No report.

#### PARKS, RECREATION, GENERAL SERVICES

*Wallace Redd, Chair*

No report.

#### PUBLIC SAFETY COMMITTEE

(Building & Codes, Fire, Police)

*Geno Grubbs, Chair*

Councilman Grubbs said the Building & Codes staff distributed department information to the public during the recent Chamber of Commerce Home & Garden Show and reported the following February department statistics: Code Enforcement - 193 cases, Construction Division - 1,498 inspections.

Councilman Grubbs said Clarksville Fire & Rescue responded to 687 emergency calls during February and had recently hired five new firefighters.

Councilman Grubbs said the Police Department had four new officers. He informed the public that former Police Chief Charles Slayden was recently hospitalized.

#### STREET COMMITTEE

*James Lewis, Chair*

Councilman Lewis reported 123 work orders completed by the Street Department during February.

#### TRANSPORTATION COMMITTEE

*Marc Harris, Chair*

Councilman Harris said Clarksville Transit System transported 74,345 passengers and the City Garage completed 233 work orders during February with unleaded fuel at \$3.38 per gallon and diesel at \$3.41 per gallon.

#### RECESS

The Council recessed for approximately five minutes.

#### NEW BUSINESS

**ORDINANCE 67-2012-13** (First Reading; Postponed January 29<sup>th</sup>) Amending the Official Code relative to Code of Ethics

Councilman Redd made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Lewis.

Councilwoman McLaughlin offered an amendment to Sec. 1-620, "Procedures for Filing," Subsection 2 and 2a, to delete the requirement for complaints to be in writing and sworn by the complainant. The motion was seconded by Councilman Steward. Councilman Allen, Councilman Redd, and Councilwoman Jones supported allowing anonymous complaints; Councilman Burkhart and Councilwoman Guzman opposed anonymous complaints. Following discussion, Councilman Lewis called for the question. The question was seconded by Councilman Steward. A voice vote was taken; the motion to cease discussion on the amendment passed without objection. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Redd, Summers

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

Councilwoman McLaughlin's amendment failed.

Councilman Summers offered an amendment to Section 1-611, "Ethics Commission," to change the number of commissioners from five to thirteen who are registered voters in respective wards as well as other membership criteria. The amendment was seconded by Councilman Steward. Following a lengthy

discussion, Councilman Steward called for the question on the amendment. The question was seconded by Councilman Lewis. The following vote was recorded:

AYE: Burkhart, Grubbs, Harris, Lewis, McMillan, Steward, Wallace

NAY: Allen, Guzman, Jones, McLaughlin, Redd, Summers

The motion to cease discussion on Councilman Summers' amendment failed due to lack of 2/3 majority. After brief discussion, Councilman Burkhart called for the question. The question was seconded by Councilman Steward. The following vote was recorded:

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

NAY: Allen, Redd

The motion to cease discussion on Councilman Summers' amendment passed. The following vote on the amendment was recorded:

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

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

Councilman Summers' first amendment failed.

Councilman Summers offered an amendment to Sec. 1-619, "Ethics Commission Jurisdiction," to include entities having a separate corporate or other legal existence other than those that have their own ethics policy. The motion was seconded by Councilman Steward. The following vote was recorded:

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

Councilman Summers' second amendment unanimously passed.

Councilman Summers' offered an amendment to Sec. 1-622, "Commission Action," Subsection (b), to require the Commission to take action as decided by a vote of six members instead of four, and to Sec. 1-622(b)(1) to require the Commission to make recommendations to the City Council regarding any action to be taken. The motion was seconded by Councilman Steward. The following vote was recorded:

AYE: Jones, Lewis, McLaughlin, Steward, Summers

NAY: Allen, Burkhart, Grubbs, Guzman, Harris, Redd, Wallace

Councilman Summers' third amendment failed. Councilman Steward 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 as amended was recorded:

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

NAY: Allen, Jones, McLaughlin, Steward, Summers

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

**RESOLUTION 32-2012-13** (Postponed January 3<sup>rd</sup>) Authorizing the Regional Planning Commission to initiate revisions to the City Zoning Ordinance and the City Code relative to signage and lighting provisions

Councilman Summers made a motion to substitute the previous version (postponed January 3, 2013) with the amended version. The motion was seconded by Councilman Steward. A voice vote was taken; the motion passed without objection. Councilman Summers made a motion to adopt the amended version of this resolution. The motion was seconded by Councilman Steward. Mayor McMillan reminded the Council that a comprehensive task force had been formed to review and recommend changes to signage city-wide. Councilman Redd called for the question. The question was seconded by Councilman Lewis. The following vote was recorded:

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

NAY: Allen, Steward

The motion to cease discussion passed. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Summers

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

The motion to adopt this resolution failed.

**ORDINANCE 76-2012-13** (First Reading) Amending the FY13 Municipal Properties Budget for Council Chambers roof repair

Councilman Redd made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Steward. Maintenance Supervisor Kevin Cowling said the damaged roof would be removed and replaced. Councilman Burkhart called for the question. The question was seconded by Councilman Steward. A voice vote was taken; the motion to cease discussion passed without objection. The following vote on the original motion was recorded:

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

This motion to adopt this ordinance on first reading unanimously passed.



## COUNCILMAN STEWARD

Councilman Steward announced that he was undergoing test to become a kidney donor for his friend, Wiley Byrd.

## ADJOURNMENT

The meeting was adjourned at 11:19 p.m.

Resolution 39-2012-13

A resolution requesting that Mayor Macmillan direct the police department to abandon the new funeral escort policy and revert back to the old policy.

Whereas,

On March 18, 2013 the Police Department implemented a new Funeral Escort policy. The policy would limit the number of vehicles that would be escorted to the graveside in a procession to seven vehicles including the hearse. and

Whereas ,

due to the enormous outcry from the citizens of Clarksville pertaining to this policy change and the appearance of certain persons receiving preferential treatment at the discretion of the mayor as it pertains to escorts. and

Whereas,

this policy would place those who are not being escorted to risk not being able to arrive at the gravesite in a timely manner to participate in paying their final respects to the deceased and the comforting of their family.

*NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE*

Is requesting that Mayor Macmillan direct the police department to abandon the new funeral escort policy and revert back to the old policy.

*ADOPTED:*