

COUNCIL PROCEEDINGS

Regular Meeting

November 28, 2016

CALL TO ORDER: By Mayor Lewis on Monday, November 28, 2016, at 7:00 p.m.

PRESENT: Councilmembers Ridge, Mitchell, Russo, Bahmer, Johnston, Sanders, Mayor Lewis, City Clerk Terpstra and City Manager Guetschow.

The invocation was offered by Pastor Randy Royston, followed by the Pledge of Allegiance.

APPROVAL OF MINUTES FOR REGULAR MEETING OF NOVEMBER 14, 2016: Councilmember Ridge moved, supported by Johnston to approve the regular meeting minutes of November 14, 2016 as presented. Carried. 7 Yes. 0 No.

ABSENT: None.

PUBLIC HEARINGS:

A. PUBLIC HEARING-SIDE YARD SETBACK – 445 PRAIRIE STREET:

Public Hearing opened: 7:02 P.M.

Bryan Myrkle, Community Development Director, explained that the side yard setback is needed at 445 Prairie due to the condition of the person living there that was involved in an accident and is now handicapped. He stated that the property would be utilized almost to the property line. There were no calls from any of the neighbors.

Public Hearing closed: 7:05 P.M.

PUBLIC COMMENT: Jason Vanderstelt, 1145 Carlisle Hwy., thanked council for their support of Charlotte Rising. He commented on the extra Christmas tree lights and how nice the tree looks this year.

Joe E. Pray, 316 W. Seminary, thanked council for their support of Charlotte Rising. He encouraged council to volunteer for upcoming projects that are planned for Charlotte Rising.

APPROVAL OF AGENDA: Mayor Pro-Tem Sanders moved, supported by Russo to approve the agenda moving Item 13c to follow 13e. Carried. 7 Yes. 0 No.

SPECIAL PRESENTATIONS:

A. KEVIN CHANG, WILD BILL'S TOBACCO- NEW MARIJUANA STATUTES –(COUNCILMEMBER BAHMER):

Paul Weisenberger and Kevin Chang, Wild Bill's Tobacco, gave a power point presentation on laws applicable to Marijuana sales.

EXPEDITED RESOLUTIONS AND ORDINANCES

A. CONSIDER APPROVAL OF RESOLUTION NO. 2016-135 FOR WINTER WONDERLAND BLOCK PARTY:

WHEREAS, The downtown businesses are planning to have a Christmas Tree Alley and Winter Wonderland Block Party in the new parking lot in the 100 block of South Washington Street on Saturday, December 17, 2016, and;

WHEREAS, the businesses would like to utilize the lot from late evening Thursday, December 15th through Sunday, December 18th for set up and tear down, and;

WHEREAS, several events are planned such as, “Santa’s Toy Shoppe children’s musical, Santa & Mrs. Santa, Mommy & Me Nail Painting, Christmas Costume Pet Parade, Petting Zoo, Cookie Decorating, Art Projects, “Winter Wonderland Alley Stroll”, Christmas music and Carolers, and;

THEREFORE BE IT RESOLVED that the City of Charlotte City Council hereby authorizes the use of the new South Washington Street parking lot as requested for this event.

Mayor Pro-Tem Sanders moved, supported by Mitchell to approve Resolution No. 2016-135 for Winter Wonderland Block Party as presented. Carried. 7 Yes. 0 No.

B. CONSIDER APPROVAL OF RESOLUTION NO. 2016-136 REGARDING PAYMENT OF CLAIMS & ACCOUNTS:

WHEREAS, Section 7.7 (B) of the City Charter requires Council approval for the expenditure of city funds; and

WHEREAS, the November 25, 2016 payroll totaled \$211,603.44; and

WHEREAS, the October 2016 Bank of America credit card charges totaled \$9,380.31; and

WHEREAS, the November 28, 2016 claims total \$409,613.92;

THEREFORE, BE IT RESOLVED that the City Council approves claims and accounts for November 28, 2016 in the amount of \$630,597.67.

APPROVAL OF CLAIMS AND ACCOUNTS BY ROLL CALL VOTE: Councilmember Ridge moved, supported by Russo to approve Resolution 2016-136 for expenditures of the City for November 28, 2016 as presented. Carried. 7 Yes. 0 No.

C. CONSIDER APPROVAL OF RESOLUTION NO. 2016-139 TO AUTHORIZE CONTRACT CHANGE ORDER NO. 1 FOR PARKING LOTS 4 & 10 RECONSTRUCTION PROJECT :

WHEREAS, the 2016 Parking Lot Project contract was awarded to Reith-Riley Construction

Company by City Council on August 22, 2016 in the amount of \$368,996.06; and

WHEREAS, the contract included an alternate bid amount of \$53,749 for repaving of certain adjacent private properties; and

WHEREAS, the adjacent property owners chose not to perform this work; and

WHEREAS, an additional quantity 296.34 cubic yards of Subgrade Undercutting, Type II was required to complete the project, due to unexpectedly poor soils encountered; and

WHEREAS, the total cost of these additional materials at a rate of \$18.50 per cubic yard is \$5,482.29; and

THEREFORE, BE IT RESOLVED that the City Council authorizes contract Change Order #1 in the amount of -\$48,266.71, resulting in a new contract price of \$320,729.35 for the reconstruction of Parking Lots 4 & 10.

Councilmember Ridge moved, supported by Johnston to approve Resolution No. 2016-139 to authorize contract Change Order No. 1 for parking lots 4 & 10 Reconstruction Project as presented. Carried. 7 Yes. 0 No.

ACTION ITEMS – RESOLUTIONS AND ORDINANCES:

A. CONSIDER SECOND READING AND ADOPTION OF RESOLUTION NO. 2016-132 FOR FUNDING MICHIGAN MAIN STREET PROGRAM #CHARLOTTE RISING:

WHEREAS, the City of Charlotte was chosen as one of Michigan Governor Rick Snyder’s ten Project Rising Tide communities in 2015; and

WHEREAS, Project Rising Tide determined that a primary focus of Charlotte’s economic development activities should be the redevelopment of Downtown Charlotte; and

WHEREAS, the mechanism identified by Project Rising Tide to aid and assist with this redevelopment is the Michigan Main Street Program; and

WHEREAS, the local Project Rising Tide leadership team has formed a new non-profit organization named #CharlotteRising aimed at furthering the community’s participation in Michigan Main Street at the ‘Selected Level;’ and

WHEREAS, participation at the ‘Selected Level’ requires a five-year commitment to fully funding a range of Main Street activities that include:

- Employing a full-time Main Street manager who coordinates and facilitates the work of the program
- Establishing and maintaining an active board of directors and team of volunteers
- Participation in all trainings and services provided by Michigan Main Street
- Committing to the pursuit of downtown redevelopment using the established Main Street 4-Point Approach

;and

WHEREAS, the City of Charlotte Downtown Development Authority has voted its unanimous support for this effort; and

WHEREAS, the City of Charlotte desires to join with numerous other community institutions, organizations and businesses who have committed to funding and partnering with #CharlotteRising.

NOW, THEREFORE BE IT RESOLVED THAT the City of Charlotte City Council hereby states its commitment to enter into a contract for services with #CharlotteRising for economic and community development services in the amount of \$25,000 per year for the next five years; and

BE IT FURTHER RESOLVED THAT this \$25,000 be made available to #CharlotteRising only in the event that it is successful in its application to the Michigan Main Street ‘Selected Level; and

BE IT FURTHER RESOLVED THAT these funds be duly allocated as part of the city’s annual budgeting process, beginning with the 2017-18 Fiscal Year

Mayor Pro-Tem Sanders moved, supported by Mitchell to approve the second reading and adoption of Resolution 2016-132 for Funding Michigan Main Street Program #Charlotte Rising as presented. Carried. 7 Yes. 0 No.

B. CONSIDER SECOND READING AND ADOPTION OF RESOLUTION NO. 2016-133 TO APPROVE LICENSE AGREEMENT FOR PUBLIC ART PROJECT:

WHEREAS, the City of Charlotte has been awarded a grant from the Lansing Economic Area Partnership for the commission of a public art installation, specifically a sculpture; and

City Council Minutes 11-28-2016

WHEREAS, the City of Charlotte desires to locate this sculpture on the northeast corner of 202 S. Cochran Avenue, commonly referred to as the Peters Circle Building; and

WHEREAS, the owners of this property have agreed to the installation of this sculpture; and

WHEREAS, the City of Charlotte City Attorney has prepared a license agreement detailing the rights and responsibilities of the City and Property Owner.

NOW, THEREFORE BE IT RESOLVED THAT, the City of Charlotte City Council hereby approves the public art installation license agreement between the City of Charlotte and Bauer Meschke Properties, LLC.

Bryan Myrkle, Community Development Director, explained that the license agreement has been amended for Mr. Bauer so that he can get out of the agreement in the event that he sold his property. The piece of art is constructed so that it can be moved without damage if need be in the future.

Councilmember Ridge moved, supported by Sanders to approve the second reading and adoption of Resolution 2016-133 to approve License Agreement for Public Art project as presented. Carried. 6 Yes. (Ridge, Russo, Johnston, Mitchell, Sanders, Lewis) 1 No. (Bahmer)

INTRODUCTION OF RESOLUTIONS AND ORDINANCES:

A. CONSIDER APPROVAL OF FIRST READING OF RESOLUTION NO. 2016-137 FOR GRANTING A SIDE YARD SETBACK VARIANCE FOR PROPERTY LOCATED AT 445 PRAIRIE STREET:

WHEREAS, the owner of 445 State Street desires to construct an addition to his home; and

WHEREAS, this addition would encroach approximately 7 feet into the required 8 foot side yard setback; and

WHEREAS, the purpose of this building addition would be to provide accommodations to a disabled person soon to reside in the home; and

WHEREAS, the homeowner also seeks a front yard setback variance for the construction of a handicap access ramp; and

WHEREAS, the Americans with Disabilities Act requires local zoning officials to make reasonable accommodations to people with disabilities; and

WHEREAS, alternatives that would not require a zoning variance appear to be unavailable; and

WHEREAS, the City of Charlotte Zoning Board of Appeals hereby makes the following findings:

1. The granting of this variance will not impair an adequate supply of light and air to adjacent property.
2. The granting of this variance will not unreasonably increase congestion in public streets.
3. The granting of this variance will not unreasonably diminish or impair established property values within the surrounding area.
4. The granting of this variance will not, in any other respect, impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

THEREFORE, BE IT RESOLVED a variance to the zoning ordinance is hereby granted that allows both a building addition and a handicap access ramp to be constructed at 445 Prairie Street encroaching into the required side yard and front yard setbacks as previously described.

Councilmember Bahmer moved, supported by Mitchell to approve the first reading of Resolution 2016-137 for granting a side yard setback variance for property located at 445 Prairie Street as presented. Carried. 7 Yes. 0 No.

B. CONSIDER APPROVAL OF FIRST READING OF RESOLUTION NO. 2016-140 TO AUTHORIZE A CONTRACT WITH CONSUMERS ENERGY ES SERVICES FOR REPLACEMENT OF TIRRELL LIFT STATION GENERATOR:

WHEREAS, the generator at the Tirrell Lift Station was originally installed in 1979 and has been budgeted for replacement in the current fiscal year; and

WHEREAS, the diesel generator will be replaced with a natural gas powered generator eliminating the need for an underground storage fuel tank; and

WHEREAS, Consumers Energy ES Services has provided design/build services to the City for the Reynolds Road Lift Station and the Chad Lift Station backup generators with great success; and

WHEREAS, a Consumers Energy ES Services has visited the site, performed preliminary load testing, and provided calculations for sizing the generator; and

WHEREAS, a Consumers Energy ES Services has estimated that the project will cost approximately \$65,000 including their fee, the purchase and installation of the generator and upgrading the gas service for the generator; and

WHEREAS, Consumers Energy ES Services submitted a proposal to perform the services listed in the contract for a fee of 10% of the total amount to be paid by the City for the procurement and installation of the new generator.

THEREFORE, BE IT RESOLVED That the City enter into a contract with Consumers Energy ES Services to provide the above mentioned services and that the mayor or clerk be directed to sign said contract on behalf of the City.

Councilmember Ridge moved, supported by Mitchell to approve the first reading of Resolution 2016-140 to authorize a contract with Consumers Energy ES Services for replacement of Tirrell Lift Station Generator as presented.

Councilmember Bahmer moved, supported by Russo to table the first reading of Resolution 2016-140 to authorize a contract with Consumers Energy ES Services for replacement of Tirrell Lift Station Generator. Carried. 5 Yes (Russo, Sanders, Bahmer, Johnston, Mitchell) 2 No. (Ridge, Lewis)

C. D. CONSIDER MOTION TO REMOVE FROM TABLE THE FIRST READING OF AN ORDINANCE TO AMEND CHAPTER 46 TO RENAME THE CHAPTER, REMOVE REFERENCES TO CANVASSERS AND PROVIDE FOR FOOD TRUCKS KNOWN AS SPECIAL TRANSITORY FOOD UNITS AND SET PUBLIC HEARING FOR DECEMBER 12, 2016:

Councilmember Russo moved, supported by Sanders to remove from table the first reading of an ordinance to amend Chapter 46 to rename the chapter, remove references to canvassers and provide for food trucks known as special transitory food units and set a public hearing for December 12, 2016 as presented.

Carried. 6 Yes. (Bahmer, Mitchell, Russo, Ridge, Johnston, Sanders) 1 No. (Lewis)

D. E. CONSIDER APPROVAL OF FIRST READING OF AN ORDINANCE TO AMEND CHAPTER 46 TO RENAME THE CHAPTER, REMOVE REFERENCES TO CANVASSERS AND PROVIDE FOR FOOD TRUCKS KNOWN AS SPECIAL TRANSITORY FOOD UNITS AND SET PUBLIC HEARING FOR DECEMBER 12, 2016:

AN ORDINANCE TO AMEND CHAPTER 46: SOLICITORS AND CANVASSERS, BY RENAMING THE CHAPTER, BY REMOVING ANY REFERENCES TO CANVASSERS BY AMENDING SECTION 4.6-1 AND DELETING SECTIONS 4.6-6 AND 4.6-7, AND BY ADDING ARTICLE II, SECTION 46-51 THROUGH 46-70 TO PROVIDE FOR FOOD TRUCKS, KNOWN AS SPECIAL TRANSITORY FOOD UNITS, WITHIN THE CITY OF CHARLOTTE.

THE CITY OF CHARLOTTE ORDAINS:

Chapter 46 - Solicitors and Canvassers - of the Code of the City of Charlotte is hereby amended as follows:

1. Chapter 46: SOLICITORS AND CANVASSERS, is hereby renamed PEDDLERS AND TRANSITORY BUSINESSES.
2. Sections 46-1 through 46-5 of Chapter 46: **SOLICITORS AND CANVASSERS**, of the Code of the City of Charlotte is amended to read as follows:

ARTICLE I, Peddlers
§ 46-1 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

PEDDLER. Any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, books, or magazines, personal property of any nature whatsoever for immediate or future delivery or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. This definition includes any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodginghouse, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for immediate or future delivery.

(1993 Code, § 46-1)

Cross reference:

Definitions and rules of construction generally, see § 1-2

§ 46-2 PEDDLER'S LICENSE – REQUIRED; POLICE CHIEF CERTIFICATION.

(A) No person shall engage in the business of a peddler within the city without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police or his designee.

(B) In all cases where the certification of the Police Chief is required prior to the issuance of any license by the City Clerk, such certification shall be based upon a finding that the person making

City Council Minutes 11-28-2016

application for such license is of good moral character.

(C) The phrase GOOD MORAL CHARACTER, when used in this chapter for the purpose of licensing, shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.

(D) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that at the current time he has the ability and is likely to serve the public in a fair, honest and open manner, that he is rehabilitated or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks to be licensed.

(E) The following criminal records shall not be used, examined or requested by the city in a determination of good moral character:

- (1) Records of an arrest not followed by a conviction;
- (2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction;
- (3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest and open manner;
- (4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

(F) When a person is found to be unqualified for a license because of a lack of good moral character or similar criteria, the person shall be furnished by the City Clerk with a statement to that effect. The statement shall contain a complete record of the evidence upon which the determination was based. The person shall be entitled, as of right, to a rehearing on the issue before the Council if he has relevant evidence not previously considered regarding his

qualifications.

(1993 Code, § 46-2)

Statutory reference:

Similar provisions, see M.C.L.A. §§ 338.41 et seq.

§ 46-3 SAME – APPLICATION.

The peddler's license application shall furnish the following information:

- (1) Name and description of the applicant;
 - (2) Permanent home address and telephone number and full local address of the applicant;
 - (3) Driver's license, automobile make and automobile license number;
 - (4) A brief description of the nature of the business and the goods to be sold;
 - (5) The length of time for which the right to do business is desired;
 - (6) The place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed and the proposed method of delivery;
 - (7) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be 2 inches by 2 inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (1993 Code, § 46-3)

§ 46-4 SAME – FEES.

The fees for a peddler's license shall be \$5 per day, \$10 per week, \$25 per month, or \$50 per year. This fee may be changed by resolution of the City Council from time to time. No fee for a peddler's license shall be so applied as to occasion an undue burden

City Council Minutes 11-28-2016

upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he may apply to the City Manager for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within 6 months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and gross volume or estimated gross volume of business and such other information as the City Manager may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Manager shall then conduct an investigation, comparing the applicant's business with other businesses of like nature, and shall make findings of fact from which he shall determine whether the fee fixed for the solicitor's license is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the City Manager shall have the power to base the fee upon a percentage of gross sales or any other method which will ensure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed. Should the City Manager determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the city or at the end of each 3 month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any 1 license year shall be required after the licensee shall have paid an amount equal to the annual license fee.

(1993 Code, § 46-4)

§ 46-5 RESIDENTIAL PEDDLING PROHIBITED.

(A) It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether peddlers shall be, or shall not be, invited to their respective residences.

(B) Notice of the refusal of invitation to peddlers, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

"NO PEDDLERS INVITED"

(C) The card so exhibited shall constitute sufficient notice to any peddler of the determination by the occupant of the residence of the information contained thereon.

(1993 Code, § 46-5)

3. Sections 46-6 and 46-7 of Chapter 46: SOLICITORS AND CANVASSERS, of the Code of the City of Charlotte are hereby deleted and of no further force and effect.

4. Chapter 46: SOLICITORS AND CANVASSERS, of the Code of the City of Charlotte is hereby amended by adding Article II, Special Transitory Food Units, Sections 46-51 through 46-70, which sections shall read as follows:

ARTICLE II, Special Transitory Food Units

§46-51. Short title.

This article shall be known as the City of Charlotte Special Transitory Food Unit Ordinance.

§46-52. Purpose

It is the purpose of this article to regulate the operation of Special Transitory Food Units, to provide licensing requirements for same; and to protect the public health, safety and welfare.

§46-53. Validity and Severability.

The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

§46-54. Repealer Clause.

All ordinances or parts of ordinances in conflict therewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

§46-55. Effective Date.

This Ordinance shall be effective twenty (20) days from the date of final publication.

§46-56. Definitions.

Administrator means the City Manager, Zoning Administrator or official designee.

Operate shall mean the actual hours when the Special Transitory Food Unit is open for business, not including the hours to set up and take down.

Operator shall mean any person engaged in the business of sales from a Special Transitory Food Unit; if more than one individual is operating a motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable, then operator shall mean all individuals operating such motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable.

Operating a Special Transitory Food Unit means serving or offering for sale food and/or beverages from a Special Transitory Food Unit.

Special Transitory Food Unit shall mean any motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable and not permanently attached to the ground from which food is served or offered for sale.

§46-57. Permitted Locations.

Operating a Special Transitory Food Unit shall be permitted on private property in zoning districts B-2, B-3 and I-2; as well as at churches, schools and public parks, regardless of zoning designation. In no circumstances shall a Special Transitory Food Unit be permitted to operate within a street Right-of-Way. Special Transitory Food Units shall be permitted to operate in other areas of the city during special events and festivals as authorized by City Council Resolution, provided that operation of a Special Transitory Food Unit, with permission of property owners at 100 West Lawrence Avenue (Courthouse Square), 120 West Lovett Street (Beach Market), and 1025 South Cochran Avenue (Eaton County Fairgrounds) be allowed without a City Council Resolution.

§46-58. Permitted Hours.

Operating a Special Transitory Food Unit shall be only be permitted between the hours of 7:00 a.m. and 11 p.m. Operation outside these hours may be permitted during special events and festivals as authorized by City Council Resolution.

§46-59. Permit Required.

No person shall operate a Special Transitory Food Unit without a permit issued by the Administrator. The serving or sales of food and/or other consumables shall not be allowed unless the operation meets the definition of Special Transitory Food Unit herein and complies with the requirements of this ordinance.

§46-60. Exceptions to Permit Requirement.

The following operations are exempt from the permit requirement and the corresponding fee:

- (1) Operating a Special Transitory Food Unit as part of a special event or sidewalk sale organized and operated by an established restaurant or business for a period of time not to exceed three (3) days.

(2) Operating a Special Transitory Food Unit for a period of three (3) days or less on church and school properties conducted in conjunction with a special event at the church or school. The exemption shall only apply to three (3) special events or fewer per year.

(3) Veterans who have been issued a permit by the County Clerk pursuant to Public Act 359 of 1921.

(4) Special Transitory Food Units being operated by permission of City Council through a City Council Resolution, as well as Special Transitory Food Units being operated with the permission of property owners at 100 West Lawrence Avenue (Courthouse Square), 120 West Lovett Street (Beach Market), and 1025 South Cochran Avenue (Eaton County Fairgrounds).

§46-61. Duration; Number; Local Preference; Non-Transferability.

Permits may be issued by the Administrator for a monthly period of thirty days (30) or a seasonal period of one hundred twenty (120) days from the date of issuance. Monthly permits shall not be issued to the same operator for consecutive months. Seasonal permits may be renewed by an operator in good standing.

At any one time, there may be only three (3) permits in effect which allow an operator to engage in transitory sales from a food unit. The Administrator shall not issue more than two (2) monthly, or two (2) seasonal permits at any one time, and no combination of monthly and seasonal permits that total more than three (3) shall be in effect at any one time.

When the number of applicants exceeds the number of available permits, the Administrator shall issue permits to Charlotte residents and business owners before considering other applicants.

Any permit issued under this article is non-transferrable between operators, properties, and Special Transitory Food Units.

§46-62. Permit Application.

A person or individual desiring to operate a Special Transitory Food Unit shall submit a permit application to the Administrator's Office. No application shall be processed until it is complete. The application shall contain the following information:

(1) The applicant's name, address, phone number, and email.

(2) The address and/or parcel number of the property where the Special Transitory Food Unit will be located.

(3) The name, address, phone number, driver's license or photo identification and email of the party responsible for operating the Special Transitory Food Unit, if different from the applicant. If more than one individual is employed at the Special Transitory Food Unit, the names, addresses, phone numbers, driver's permit or photo identification, and emails for all employees shall be provided.

(4) If applicable, the license plate number of the Special Transitory Food Unit; as well as a copy of the registration and proof of insurance.

(5) The proposed days and hours of operation and estimated staffing level.

(6) Written permission from the owner of the property on which the Special Transitory Food Unit will operate.

(7) A sketch depicting the location of the special transitory food Unit, existing buildings, parking, streets, driveways, and sidewalks.

(8) Copies of any license, permit, or authorization required by any other ordinance, statute, or administrative rule. It shall be the responsibility of the operator to know and understand what other licenses, permits or authorizations may be required by other ordinances, statutes or administrative rules outside the immediate jurisdiction of the City of Charlotte.

(9) Copy of the menu, or list of primary food items planned for sale.

§46-63. Processing of Permit Application.

A Special Transitory Food Unit permit shall be issued or denied within ten (10) business days from the day the application was

originally filed. If the application is denied, the Administrator shall notify the applicant in writing of the specific reason(s) why the application was denied.

§46-64. Enforcement.

It shall be the responsibility of the Administrator to enforce the terms of this article.

§46-65. Fees.

An application for a permit under this ordinance shall be accompanied by a fee in the amount established in the schedule of fees adopted by the City of Charlotte City Council. There shall be no proration of fees. Fees are non-refundable once a permit is issued by the Administrator.

§46-66. Requirements.

Persons operating a Special Transitory Food Unit shall comply with the following requirements:

- (1) Special Transitory Food Units shall not be located within any street right of way; and shall adhere to the requirements of Charlotte City Code section 82-463 Corner Clearance.
- (2) Signage related to Special Transitory Food Units shall be in compliance with the regulations of the City of Charlotte Sign Ordinance. No signage shall be displayed or erected outside of the immediate vicinity of the Special Transitory Food Unit.
- (3) Special Transitory Food Units shall be removed entirely from the site every day, no overnight storage of any kind shall be permitted. The operator shall remove all litter and debris attributable to the operation on at least a daily basis.
- (4) Outdoor seating, including but not limited to tables, chairs, benches, or stand up counters shall be subject to the approval of the Administrator.
- (5) An operator shall not extend power cables, extension cords or similar devices across any public street, sidewalk or pathway.

(6) Special Transitory Food Units shall be completely self-contained, and are prohibited from using water from public hydrants and disposing of liquid wastes, including but not limited to grease, into storm drains or sanitary sewers.

(7) The Special Transitory Food Unit shall not be located so as to block a public sidewalk or pathway, designated fire lane, or otherwise impede pedestrian or vehicular movement.

(8) A Special Transitory Food Unit shall not make or cause to be made any excessive noise. The operation of all Special Transitory Food Units shall be in compliance with the City of Charlotte noise ordinance, including generators.

(9) Operators who conduct business on city owned properties shall provide a copy of their Certificate of General Liability Insurance which names City of Charlotte as an additionally insured.

(10) The Special Transitory Food Unit permit from City of Charlotte, state sales tax permit and license from the county health department shall be displayed at all times by the operator in a conspicuous location.

(11) Special Transitory Food Units shall be inspected by the Administrator before issuance of a permit. The Administrator's inspection shall ensure that a permitted Special Transitory Food Units are:

- (a) In safe operating condition as required by the State of Michigan Motor Vehicle Code;
- (b) Clean; free of food waste, debris and grime;
- (c) Free of graffiti, excessive rust, and broken or neglected fixtures;

(12) Special Transitory Food Units shall offer a substantially unique menu. The Administrator shall not issue a permit for a Special Transitory Food Unit that offers the same primary food item as another contemporary permit holder, i.e. hot dogs, donuts, tacos, barbecue, ice cream, coffee, or similar, recognizing that many

Special Transitory Food Units may have extensive menus and some duplication of offering is expected. This determination shall be made by the Administrator.

§46-67. Sales Tax Permit.

If an operator does not have a state sales tax permit, the Administrator shall send a notification to the registration section of the Michigan Department of Treasury at the time the Administrator issues the permit.

§46-68. Revocation.

The Administrator shall revoke the permit of any operator of a Special Transitory Food Unit who ceases to meet the requirements of this article; who commits fraud, misrepresentation or makes a false statement on their application or in the course of operating the Special Transitory Food Unit; who is convicted of a felony; or who creates a public nuisance or constitutes a danger to the public health, safety, and welfare.

It is the intention of the City that permits issued under this ordinance shall be used. Therefore, the Administrator shall revoke the permit of any operator who does not make use of the permit within ten (10) days following issuance.

Immediately upon such revocation the permit shall become null and void and the Administrator shall provide written notice to the permit holder and property owner by certified mail to the address provided on the application. No person whose Special Transitory Food Unit permit has been revoked shall be eligible to receive another permit within the City of Charlotte for two (2) years from the date of permit revocation.

§46-69. Appeals.

Any person aggrieved by an order, requirement, decision or determination of the Administrator as it relates to this article may

appeal to the City of Charlotte City Council in accordance with the following procedures:

(1) A written statement containing the specific reason(s) for the appeal must be filed with the City Clerk within fifteen (15) calendar days of the date of the decision sought to be appealed.

(2) The City of Charlotte City Council shall hold a hearing on the appeal, which shall be open to public comment and shall include an opportunity for the appealing party to present their appeal.

(3) Notice of the time and place for consideration of an appeal shall be sent by the City Clerk by mail or personal delivery not less than ten (10) calendar days prior to the date of the hearing to the parties making the appeal.

(4) The City of Charlotte City Council shall issue its decision on the appeal within a reasonable time. In its determination of the appeal, the City of Charlotte City Council may take, but is not limited to, any of the following actions:

(a) Affirm the decision of the Administrator with or without modification and with or without such conditions as the Board deems necessary or appropriate to further the intent and purposes of this ordinance.

(b) Reverse the decision of the Administrator and state its reasons for reversal.

(c) Make any other decision, determination, order, or requirement that the Administrator could have made with respect to the subject matter of the appeal.

(5) The City Clerk shall notify the parties making the request in writing of the City of Charlotte City Council decision regarding the appeal.

§46-70. Sunset.

The ordinance codified herein will sunset after one year.

This ordinance shall become effective 20 days after adoption and
City Council Minutes 11-28-2016

that the above ordinance be passed to a second reading.

Councilmember Russo moved, supported by Ridge to approve the table the first reading of an ordinance to amend Chapter 46 to rename the chapter, remove references to canvassers and provide for Food Trucks known as Special Transitory Food Units to a special meeting to be held January 30, 2017. Carried. 7 Yes. 0 No.

E. C. CONSIDER APPROVAL OF THE FIRST READING OF AN ORDINANCE TO AMEND CHAPTER 82 TO PERMIT SPECIAL TRANSITORY FOOD UNITS IN THE B-2 AND B-3 BUSINESS DISTRICT AND SET PUBLIC HEARING FOR JANUARY 3, 2017:

AN ORDINANCE TO AMEND ARTICLES XII AND XIII OF CHAPTER 82: ZONING, OF THE CODE OF THE CITY OF CHARLOTTE, BY AMENDING SECTIONS 82-248 AND 82-268 IN ORDER TO PERMIT SPECIAL TRANSITORY FOOD UNITS IN THE B-2 COMMUNITY BUSINESS DISTRICT AND B-3 GENERAL BUSINESS DISTRICT WITHIN THE CITY OF CHARLOTTE.

THE CITY OF CHARLOTTE ORDAINS:

1. Section 82-248 of Article XII of Chapter 82: ZONING, of the Code of the City of Charlotte is hereby amended to read as follows:

§ 82-248 REQUIRED CONDITIONS.

Required conditions in a Community Business District are as follows.

(1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods provided on the premises shall be sold at retail on the premises where

produced.

(2) All business, servicing or processing, except for off-street parking, loading and those open air uses indicated as being subject to special conditions in § 82-249 shall be conducted within completely enclosed buildings, except where permitted pursuant to Article II of Chapter 46 of this Code.

2. Section 82-268 of Article XIII of Chapter 82: ZONING, of the Code of the City of Charlotte is hereby amended to read as follows:

§ 82-268 REQUIRED CONDITIONS.

Required conditions in a General Business District are as follows.

(1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods provided on the premises shall be sold at retail on the premises where produced.

(2) All business, servicing or processing, except for off-street parking, loading and those open air uses indicated as being subject to special conditions in § 82-269 shall be conducted within completely enclosed buildings, except where permitted pursuant to Article II of Chapter 46 of this Code.

This ordinance shall become effective 20 days after adoption and that the above ordinance be passed to a second reading.

No action taken.

COMMUNICATIONS AND COMMITTEE REPORTS

CITY ATTORNEY REPORT: None.

CITY MANAGER REPORT: City Manager Guetschow made council aware of the holiday closings and phone numbers for Department of Public Works emergencies. He stated that staff has

City Council Minutes 11-28-2016

met regarding health insurance and possible changes to council policies regarding retirees. He stated that himself and Bryan Myrkle have been involved in mock interviews at Olivet College.

COUNCILMEMBER COMMITTEE REPORTS:

- Councilmember Ridge reported that there will be a Charlotte Recreation Co-op meeting on Thursday, December 8, 2016 at 7 PM.

PUBLIC COMMENT: Joe E. Pray, 316 W. Seminary, thanked council for adopting the Charlotte Rising Resolution. He encouraged members of council to volunteer on future projects.

MAYOR AND COUNCIL COMMENTS

- Councilmember Johnston thanked Mayor Lewis for tabling the food truck issue. He thanked everyone for attending the meeting.
- Councilmember Ridge thanked everyone for coming. She stated that she is looking forward to everything coming with Charlotte Rising. She stated that Main Street application is ready to go and she is looking forward to what that will bring.
- Mayor Pro-Tem Sanders thanked everyone for coming out. He thanked Kevin Chang for the educational session so that council could gain more knowledge of the law. He announced that Dean transportation will be providing a bus at Walmart on December 3rd at 9 AM for the Christmas Kiddies Fill A Bus project.
- Mayor Lewis stated that he hopes everyone enjoyed the Thanksgiving holiday with family and friends. He thanked the employees in the Fire and Police Departments who worked over the holidays and was not able to spend it with

family. He stated that the Police Department is participating in a “Very Hairy Christmas” where they will grow beards over the month of December if they donate to Charlotte Rising. He stated that the holiday parade was fantastic and there are pictures available online. He introduced Madison the Moose and invited everyone to participate in the Christmas Kiddies Fill a Bus at Walmart on December 3rd starting at 9 AM.

Councilmember Johnston moved, second by Sanders to adjourn at 8:28 p.m. Carried. 7 Yes. 0 No

Mayor Tim Lewis

Ginger Terpstra, City Clerk, CMMC