



City of Radford Council Agenda
Meeting Number 21 of F.Y. 2019-2020
4:00 Work Session-McHarg Elementary School

June 8, 2020 at 5:00 p.m.
10 Robertson St., Radford, VA

CALL TO ORDER
PLEDGE OF ALLEGIANCE
MOMENT OF REFLECTION

MINUTE APPROVAL: May 11, 2020

PUBLIC HEARING: Ordinance 1732-Transient Tax

NEW BUSINESS:

1. Ordinance 1732-Transient Tax

COUNCIL MEMBER COMMENTS

Adjourn

The New River City
May 11, 2020 **Radford, Virginia**
10 Robertson St.
Regular Meeting Number 20 of Radford City Council, F.Y. 2019-2020

The special meeting of the Radford City Council was convened at 5:00 p.m. in Council Chambers, 10 Robertson Street, Radford, VA. The Mayor of the City, Raymond David Horton, as well as all other members of City Council were present VIA ZOOM were Mrs. Jessie Foster, Mr. Robert Gropman, and Dr. Richard Harshberger.

Others present were as follows:
Mr. David Ridpath, City Manager
Mrs. Jenni Wilder, City Clerk
Ms. Melissa Skelton, Deputy City Clerk

Following the Pledge of Allegiance, Mayor Horton led citizens in a moment of reflection.

MINUTES APPROVALS: On a motion by Dr. Harshberger and seconded by Ms. Foster that the minutes for the April 20, 2020 Meeting are approved as amended and the minutes for the April 27, 2020 meeting are approved as presented.

VOTE:

AYES: Ms. Foster, Mr. Gropman, Dr. Harshberger, Mayor Horton

NAYES: None-0

JOINT PUBLIC HEARING:

SUBJECT: Ordinance 1731: Flood Plain Revisions

SUMMARY: The Federal Emergency Management Association requires that local floodplain Ordinances and mapping be updated periodically. Ordinance #1731 amends Ordinance #1611 establishing the floodplain districts of the Zoning Ordinance. The Flood Ordinance is established to provide safety from a floodway, facilitate the provisions of flood protection, as well as protect against loss of life, health or property from a flood. An overview of the ordinance includes provisions associated with administering the ordinance, uses and construction in flood prone areas, permitting and variances, as well as enforcement provisions.

Mayor Horton asked Mr. Howard to confirm there was a quorum of the Planning Commission present.

Mayor Horton opened the public hearing at 5:14 p.m.

No Public Comments. The Planning Commission conducted their meeting and made a recommendation to City Council to approve Ordinance 1731 as presented.

Mayor Horton closed the public hearing at 5:24 p.m.

NEW BUSINESS:

SUBJECT: Ordinance 1731: Flood Plain Revisions

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provisions associated with administering the ordinance, uses and construction in flood prone areas, permitting and variances, as well as enforcement provisions.

ACTION: Ms. Foster made a motion to accept the recommendation from the Planning Commission, Dr. Harshberger seconded the motion.

VOTE:

AYES: Mrs. Foster, Mr. Gropman, Dr. Harshberger, Mayor Horton

NAYES: None-0

ACTION: Ms. Foster made a motion to approve Ordinance 1731 on the first reading, Dr. Harshberger seconded the motion.

VOTE:

AYES: Mrs. Foster, Mr. Gropman, Dr. Harshberger, Mayor Horton

NAYES: None-0

ACTION: Ms. Foster made a motion to dispense with the second reading of Ordinance 1731, Mr. Gropman seconded the motion.

VOTE:

AYES: Mrs. Foster, Mr. Gropman, Dr. Harshberger, , Mayor Horton

NAYES: None-0

SUBJECT: CDBG Amendment

SUMMARY: The City of Radford will receive an additional \$105,448 of support for our CDBG initiatives as a result of federal CARES funding associated with the Coronavirus pandemic. The F.Y. 2017-2021 five-year plan requires amending and update to account for the additional funding. Eligible expenditures for the CARES funding includes programs that eliminate slum and blight, meet an urgent need or benefit low and moderate income people.

The Amendment proposal increases funding in the 2019 CDBG Action Plan to support the Homeless Intervention Program administered by the New River Community Action (\$42,700), rental, mortgage and utility assistance provided by the Women's Resource Center (\$15,000), as well as provide meals in conjunction with the Radford Fairlawn Daily Bread (\$42,700) and the Bobcat Backpack Program (\$10,000). We will also provide a portion of the funds to support emergency response and supplies to COVID-19 by the City (\$44,393). The amendment revises the original plan total to \$315,182.

ACTION: Dr. Harshberger made a motion to approve the CDBG Action Plan with the CARES Amendment, Ms. Foster seconded the motion.

VOTE:

AYES: Mrs. Foster, Mr. Gropman, Dr. Harshberger, Mayor Horton

NAYES: None-0

SUBJECT: Lodging Tax PH

SUMMARY: The Transient Lodging Tax was established in 2007 by Ordinance #1554 based on Virginia Code Section 58.1-3840. The rate has been 6%. City Council requested that a rate increase to 8% be developed for consideration.

Ordinance #1732 updates the provisions of the tax on hotels, motels and other lodging facilities, as well as increases the tax imposed on these facilities from 6% to 8%.

ACTION: Mr. Gropman made a motion to schedule a Public Hearing for the June 8, 2020 meeting, Ms. Foster seconded the motion.

VOTE:

AYES: Mrs. Foster, Mr. Gropman, Dr. Harshberger, Mayor Horton

NAYES: None-0

CITY COUNCIL COMMENTS:

Ms. Foster dedicated her moment of silence to two teenage brothers in Alexandria, Virginia diagnosed with COVID-19. Ms. Foster also stated that she is looking for areas of sunshine during these times and wanted to give a shout out to Lauri Murphey for creating and making RadMasks. Ms. Foster stated that the Registrar has been busy doing all he can to keep voters safe and constructed shields for the voting sites. Ms. Foster suggested everyone check out Glencoe Mansion Museum and Gallery on Facebook to learn more about Radford's history and in exciting news the RHS Senior Banners are going up around town.

Mr. Gropman read the following poem in honor of Police Week:

“Each day they risk their lives
For those they have not met
They fight for what’s right
They’re sworn to serve and protect

Their families often wonder
“Will my loved one come home tonight?”
Or was that hug the last as I said, “Have a good night.”

They come when you need help
And they take constant abuse
And yet, no matter what
They would lay down their life for you

Remember they are human
With their own hopes and dreams
They have families who love them
And all they want is peace

Don’t ever take them for granted
But treat them with respect
Thank them for all they do
And let us never forget...”

Mr. Gropman also mentioned that is National Craft Beer Week and thanked crews for installing the flags on the bridge.

Dr. Harshberger mentioned that Kim Repass has a package of information on CARES Funding and if you have any questions you should talk to her.

Mayor Horton mentioned the upcoming local election and all the Registrar is doing to make voting safe. Mayor Horton mentioned that National EMS Week is next week and National Police Week is this week. Mayor Horton also stated that West End Wednesdays is doing a Wednesday at home on Facebook this Wednesday from 6:00-7:00 p.m.

Mayor Horton stated he is proud of all of our citizens for supporting businesses through COVID-19 and with some businesses reopening on Friday we need to continue to support businesses while practicing social distancing. Mayor Horton stated the Regional Commission put together a document Working Smart. Working Safe. to help guide businesses through reopening. Mayor Horton reminded the community to be patient and steadfast in what you are doing and support others where you can. Mayor Horton also mentioned that Laurie Buchwald will have an updated on the annual Memorial Day Service in the coming week.

Mr. Gropman made a motion to adjourn the meeting at 6:05 p.m. seconded by Dr. Harshberger.

VOTE:

AYES: Ms. Foster Mr. Gropman, Dr. Harshberger, Mayor Horton

NAYES: None-0

ATTEST: _____
Jennifer G. Wilder, Clerk of Council

ORDINANCE NO. 1732

**ORDINANCE AMENDING CHAPTER 35, ARTICLE XVI
OF THE RADFORD CITY CODE TO INCREASE THE TAX ON TRANSIENTS
FOR LODGING TO EIGHT PERCENT AND MAKE OTHER AMENDMENTS**

WHEREAS, pursuant to Virginia Code § 58.1-3840, the City of Radford, Virginia (the "City") is empowered to impose an excise tax on transient room rentals; and,

WHEREAS, the City has previously adopted a tax on transients for lodging, which is set out, as amended, in Chapter 35, Article XVI of the Code of Ordinances, City of Radford, Virginia (the "City Code"); and,

WHEREAS, pursuant to Virginia Code § 58.1-3840 and § 15.2-1104, the City has determined it necessary to increase the tax on transients for lodging to eight percent and to make other amendments to Chapter 35, Article XVI of the City Code; and,

WHEREAS, prior to adoption of this Ordinance, the City held a public hearing, pursuant to Virginia Code § 58.1-3007.

NOW, THEREFORE, be it **ORDAINED** by the Council of the City of Radford, that Chapter 35, Article XVI of the City Code is amended as follows (amendments set out in italics and strike-through):

ARTICLE XVI. - TAX ON TRANSIENTS FOR LODGING

Sec. 35-446. - Definitions.

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

Commissioner means the commissioner of revenue of the city and any of *their* ~~his~~ duly authorized deputies and agents.

Hotel means any licensed public or private hotel, inn, hostelry, tourist home or house, boardinghouse, motel, rooming house, *short-term rental*, or other lodging place within the city offering lodging for compensation to any transient.

Lodging means any room or space *that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.* ~~furnished to any transient.~~

Transient means any person who, for a period of not more than 90 consecutive days, either at his own expense or at the expense of another, obtains lodging at any hotel.

Treasurer means the treasurer of the city and any of *their* ~~his~~ duly authorized deputies and agents.

(Ord. No. 1193, § 8-82, 4-30-90; Code 1992, § 8-446)

Cross reference—Definitions and rules of construction generally, [§ 1-2](#).

State law reference—*Virginia Code § 58.1-3843*.

Sec. 35-447. - Levy of tax.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a transient occupancy tax is hereby levied and imposed on each transient amounting to *eight (8) percent* ~~six percent~~ of the total amount of the charge for lodging to or for any such transient.

(Ord. No. 1193, § 8-83, 4-30-90; Code 1992, § 8-447; Ord. No. 1387, §§ 1, 2, 5-14-01; Ord. No. 1442, §§ 1, 2, 5-12-03; Ord. No. 1554, §§ 1—3, 5-14-07)

State law reference—*Virginia Code § 58.1-3840*.

Sec. 35-448. - Payment and collection of tax.

In every case, the tax levied under this article shall be collected by the hotel and paid by the transient at the time the charge for the lodging becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The hotel shall add the tax to the amount charged for the lodging and shall pay the taxes collected to the city, as provided in this article. All amounts collected as taxes by the hotel under this article shall be deemed to be held in trust by the hotel collecting the same, until remitted to the city, as provided in this article, and if not paid as and when due, shall thereafter become a debt of the hotel due to the city.

(Ord. No. 1193, § 8-84, 4-30-90; Code 1992, § 8-448)

Sec. 35-449. - Reports and remittances.

All hotels in the city shall register as such with the commissioner of revenue for collection of the tax imposed in this article. Every hotel shall file a report with the commissioner of revenue *on or before the 20th day of each month* ~~within 20 days after the last day of each calendar month~~ on forms prescribed by the commissioner, *which shall be signed by the person representing the hotel, report reporting* the charges collected for lodging and the amount of taxes due thereon for the preceding month, *and set forth any additional information as the commissioner may prescribe or require*. Each such report shall be accompanied by a remittance of the amount of the taxes *due* to the city, payable to the treasurer, which shall thereupon be transmitted by the commissioner to the city treasurer.

(Ord. No. 1193, § 8-85, 4-30-90; Code 1992, § 8-449)

Sec. 35-450. - Penalty and interest for failure to file report or make remittance.

When any hotel shall fail to make any report and remit the full amount of the tax required by this article, there shall be imposed, in addition to any other penalties herein provided, a specific penalty to be added to the tax *as follows: (i) for failure to file a report, a penalty in the amount of ten (10) percent of the tax assessable on such report or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable; and (ii) in the case of a delinquent remittance, a penalty in the amount of ten (10) percent for the first month the tax is past due, and five percent for each month thereafter, up to a maximum of twenty-five (25) percent of the taxes collected but not remitted or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable. Penalty for failure to file a report shall be assessed on the day after such report is due, and penalty for failure to pay any tax shall be assessed on the day after the first installment is due. Any such penalty when so assessed shall become a part of the tax. ~~five percent for each additional month, or fraction thereof, during which the failure continues, not to exceed 25 percent in the aggregate; provided, however, in no case shall the penalty be less than \$10.00, and such minimum penalty shall apply whether or not any tax is due for the period for which the report was required.~~ Interest in the amount of ten (10) percent per year shall accrue on the tax and penalty commencing ~~the first day following the day the tax under this article is due to be filed. 30 days from the date the report or remittance is due.~~ If such failure to file a report is due to ~~providential or other~~ good cause shown to the satisfaction of the commissioner, such report, with or without remittances, may be accepted exclusive of penalties. ~~In the case of a false or fraudulent report where willful intent exists to defraud the city of any taxes due under this article, or in the case of willful failure to file a report with the intent to defraud the city of any such tax, an additional specific penalty of fifty (50) percent of the amount of the proper tax shall be assessed, plus interest imposed by this article shall be payable by the hotel and collectible by the city in the same manner as if they were a part of the tax imposed.~~*

(Ord. No. 1193, § 8-86, 4-30-90; Code 1992, § 8-450)

State law reference—Virginia Code § 58.1-3916.

Sec. 35-451. - Estimate by city authorized.

If any hotel fails to make a report, or makes a ~~grossly~~ *materially* incorrect report, or a report that is false or fraudulent, the commissioner shall make an estimate for the taxable period of the revenue of the hotel subject to the tax imposed hereby and assess the tax plus penalties and interest. *In making the estimate, the commissioner shall give the hotel ten (10) days' notice to appear before the commissioner or his designee, with such books, records and papers as the commissioner may require relating to the hotel's business for the taxable period in question. Notice may be given by any one or more of the following methods: regular, first-class mail; certified mail; hand-delivery, noting the date, time, and place of personal delivery; or, if notice by the foregoing methods have been unsuccessful or cannot be obtained, by posting a copy of the notice in a conspicuous place on the property where the lodging occurred.* The commissioner may require that such hotel or its agents and employees give testimony or

answer interrogatories under oath administered by the commissioner or his designated agent respecting the lodging provided and the revenues therefrom which are or may be subject to the tax imposed hereby, or the failure to make a report thereof as herein provided. If any hotel fails to make any such report, or refuses to permit an examination of its records, books or papers, or to appear and answer questions within the scope of such investigation relating to revenues subject to the tax herein imposed, the commissioner is authorized to make the assessment based upon such information as may be available, and/or to issue a warrant for the collection of any such taxes and penalties so found to be due. ~~and the assessment so made~~ *Any estimate made pursuant to this section shall be deemed prima facie correct and shall be final and unappealable.*

(Ord. No. 1193, § 8-87, 4-30-90; Code 1992, § 8-451)

Sec. 35-452. - Records to be kept; examination by city authorized.

Every hotel required to make a report and pay or collect any tax under this article shall keep and preserve suitable records of revenues taxable pursuant to this article, and such other records of account as may be reasonably necessary to determine the amount of taxes due pursuant to this article, which records shall be open to examination by the commissioner or his designated agent at reasonable times and hours. Such records shall be preserved for a period of at least two years.

(Ord. No. 1193, § 8-88, 4-30-90; Code 1992, § 8-452)

Sec. 35-453. - Liability of payor.

If any check tendered for any amount due under this article is not paid by the bank on which it is drawn, the person by whom such check was tendered shall remain liable for the payment of such amount the same as if such check had not been tendered, plus a ~~\$50.00~~ ~~\$10.00~~ return check fee; and if such person shall fail to pay to the city treasurer the amount due within five (5) days after the city treasurer has given five days' written notice by registered or certified mail directed to the last known address of the person giving the check, or in person by an agent, that such check was returned unpaid, the person having drawn and tendered the check *shall be guilty of a Class 1 misdemeanor and shall be punished as provided in Section 1-7 of the City Code.* ~~misdemeanor; on conviction thereof the fine shall be not less than \$25.00 nor more than \$100.00.~~

(Ord. No. 1193, § 8-89, 4-30-90; Code 1992, § 8-453)

State law reference—Virginia Code § 15.2-106.

Sec. 35-454. - Warrant for collection of delinquent tax authorized.

The commissioner of revenue or the treasurer is authorized, when any tax becomes delinquent under this article, to cause a warrant to be issued for the collection of the tax, penalty and interest as soon as the tax becomes delinquent against the hotel or person liable for payment of the same.

(Ord. No. 1193, § 8-90, 4-30-90; Code 1992, § 8-454)

Sec. 35-455. - Obligations upon going out of business.

Whenever any person required to collect and remit to the city any tax imposed by this article shall cease to operate or otherwise dispose of his business, the tax to that date shall immediately become due and payable, and the person shall immediately make a report and remittance thereof.

(Ord. No. 1193, § 8-91, 4-30-90; Code 1992, § 8-455)

Sec. 35-456. - Advertising payment or absorption of tax prohibited.

No hotel shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the hotel or by anyone else, or that the hotel or anyone else will relieve any transient of the payment of all or any part of the tax.

(Ord. No. 1193, § 8-92, 4-30-90; Code 1992, § 8-456)

Sec. 35-457. - ~~General penalty for violation of article.~~ Violations of this article; how punishable.

(a) Any person subject to the provisions of this article failing or refusing to collect the full amount of the tax levied hereby, failing to make payment thereof to the city, failing or refusing to furnish any report herein required to be made, failing or refusing to furnish supplemental or other data required by the commissioner, who makes a false or fraudulent claim for refund, or who shall violate any other provision of this article ~~criminal punishment for which is not otherwise provided in this article, shall be guilty of a Class 1 misdemeanor and shall be punished as provided in Section 1-7 of the City Code. class 3 misdemeanor and shall be punished as provided in section 1-7, which penalty shall be in addition to any other liability for taxes, penalties and interest. Every violation of this article and each day's continuance thereof shall constitute a separate offense.~~

(b) *Notwithstanding any other provision contained herein, any person who willfully utilizes a device or software to falsify the electronic records of cash registers or other point-of-sale systems or otherwise manipulates transaction records that affect the tax liability provided under this article shall be guilty of a Class 1 misdemeanor and shall be punished as provided in Section 1-7 of the City Code. In addition to the criminal penalty provided herein, any person found in violation of this subsection (b) shall pay a civil penalty of \$20,000, to be assessed by the commissioner and collected by the treasurer as other local taxes are collected.*

(c) *The criminal and civil penalties provided by this section shall be in addition to any other liability for taxes, penalties and interest, and shall be available in addition to the City's authority to recover the taxes owed by other appropriate civil or administrative action.*

Ord. No. _____

Every violation of this article and each day's continuance thereof shall constitute a separate offense.

(Ord. No. 1193, § 8-93, 4-30-90; Code 1992, § 8-457)

State law reference—Virginia Code §§ 15.2-1429; 58.1-3907.

Secs. 35-458—35-475. - Reserved.

And, **BE IT FURTHER ORDAINED** by the Council of the City of Radford that, in accordance with Sections 2.13 and 2.14 of the City's Charter, this Ordinance shall become effective 30 days after its adoption.

Recorded Roll Call Votes:

First Reading: _____, 2020.

Second Reading: _____, 2020.

Recorded Roll Call Vote (First Reading):

Recorded Roll Call Vote (Second Reading):

Mrs. Huntington: _____
Mrs. Foster: _____
Mr. Gropman: _____
Dr. Harshberger: _____
Mayor Horton: _____

Mrs. Huntington: _____
Mrs. Foster: _____
Mr. Gropman: _____
Dr. Harshberger: _____
Mayor Horton: _____

David Horton, Mayor

ATTEST:

Jennifer G. Wilder, City Clerk