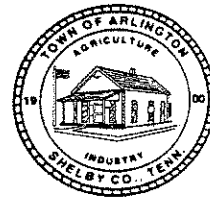


Town of Arlington

5854 Airline Road, Arlington, TN 38002



**Town Of Arlington
Board of Mayor and Aldermen
January 3, 2012**

MEETING MINUTES

I. CALL TO ORDER AND ROLL CALL

Present

Mike Wissman, Mayor
Harry McKee, Vice Mayor
Gerald McGee, Alderman
Oscar Brooks, Alderman
Glen Bascom, Jr., Alderman
Brian Thompson, Alderman
Jeff McKee, Alderman

Others Present

Gerald Lawson, Attorney
Steve Hill, Engineer
Heather Sparkes, Planner
Catherine Durant, Recorder
See List

Mayor Mike Wissman called the Board of Mayor and Aldermen meeting to order and advised that a quorum was established.

II. OPENING PRAYER

Vice Mayor Harry McKee led the opening prayer.

III. PLEDGE TO THE FLAG

Alderman Gerald McGee led the Pledge of Allegiance.

IV. APPROVAL OF THE MINUTES FROM DECEMBER 5, 2011.

Motion: Alderman Oscar Brooks made a motion to approve the Board of Mayor and Aldermen minutes from the December 5, 2011, meeting. Alderman Gerald McGee seconded the motion.

Mayor Wissman called for additions or corrections. Hearing no reply, he called for a vote.

Vote on Motion: The motion carried unanimously.

V. GRIEVANCES & COMMENTS FROM CITIZENS

Mayor Mike Wissman noted that there was a large number of citizens present. He asked for a show of hands on how many people were planning on speaking so the Board could determine

how much time to allot each speaker. It was determined that each speaker be allowed three (3) minutes. Mayor Wissman asked that each speaker come to the podium, state your name and address for the record, and please do not make any personal attacks to anyone.

Mayor Wissman recognized the first speaker, Zack Randolph, 5498 Highberry. Mr. Randolph stated that he is in favor of Ordinance 2012-01. He advised that it makes sense to him that the Town would not artificially hamstring part of its commercial property. He stated that it is important to note that the Ordinance isn't modifying the Land Use Plan, it isn't rezoning property, it isn't doing anything other than allowing one specific use in existing commercially zoned property, and noted that use to be a Chili's or O'Charleys or similar restaurants that operate with a bar. He stated that right now along the I-40 corridor, he believes the Town is missing out by not allowing restaurants to take advantage of the customer base that travels on I-40. He noted that if he were traveling, he would not go four or five miles north to a restaurant on Highway 70, he would continue down I-40 and take his money somewhere else. Mr. Randolph summed up by asking the Board to vote in favor of Ordinance 2012-01 and thanked them for allowing him to speak.

Mayor Wissman recognized the next speaker, Chris Burcky, 11900 Campbell. Mr. Burcky stated that he is speaking against Ordinance 2012-01. He stated that zoning and uses in zoning are about strategic vision and he would like to hear from a support standpoint what the strategic vision is for this type of use. He noted that he has heard revenue maximization as a term and that is fine if that is what the Town wants to accomplish. However, he believes that this is a bad strategic vision for the Town, and the current use, which was enacted in 2005 for BE and Downtown zoning, has helped Downtown. He stated that he feels that taking this incentive away at this time, especially with the economy hopefully recovering soon, would cripple Downtown. Mr. Burcky commented that he believes Downtown is more than just revenue from business, it is about the Town's identity. He believes that this is important as Downtown is a special part of the community and people attach sentimentality to that and that provides a marketing strategy to lure new residents as well as new businesses. Mr. Burcky noted that his business relocated from another corridor to the Downtown area, which because of its identity, is where he wanted to be. He asked that the Board take what strategic vision is actually being driven into consideration when voting on the Ordinance. He concluded by saying that this is what zoning is about and thanked the Board.

Mayor Wissman recognized Larry Harmon, 6171 Greenlee. Mr. Harmon addressed the people first stating that these are the Town's elected officials who are messengers. He noted that when something is brought to them, they relay to us what is being proposed for the Town. He stated that it is not a particular agenda by the elected officials; however, they are our messengers. He commented to the businesses and other entities that would like to come to Arlington and make changes in a way other than what the citizens want. Mr. Harmon advised that he would like to tell the Board to pass along the message that right now is not the proper time. He suggested that down the road it might be ok, however right now the Town is building something and to make it structurally sound, it needs a good foundation. He noted that right now what we have along this corridor is our foundation – this is the beginning of Arlington. He stated that if we do the wrong thing right now, he wonders what we will have. He stated that what we need to do is listen to the pros and cons and maybe somewhere down the road it may be the right thing to do, but right now he does not think it is the right thing to do. He thanked the Board.

Mayor Wissman recognized Bill Powell, 105 Cypress Lake Cove, Arlington. Mr. Powell advised that he is co-owner of Arlington Collection and the land on both sides of the property. He

advised that as Russell Wiseman pointed out to him, land uses have been thought about and planned for a long time and would not be haphazardly changed. Mr. Powell stated that he feels that this is the case now. He believes that there are tweaks that can be made in all of the zoning ordinances. He noted that he went before the Board to request that the medical office use be allowed on his property, and stated that he has to abide by the Board's decision. He suggested that if the Board decides to make changes, they need to take the time to study and see what the ramifications would be with respect to all of the commercial zoning, and take into consideration the possibility of including other uses. Since this has not been the policy in the past, Mr. Powell stated that he hopes the Board will stay the course for now. He thanked the Board.

Mayor Wissman recognized Kirk Wise, 5801 Lillian Bend, Arlington, TN. Mr. Wise advised that he is not coming before the Board as a businessman who owns a restaurant in Arlington. He commented that he listened to another businessman address the Board and talk about revenue and growth for the Town and that's all fine; however, Arlington is home to him and the place where he has raised his son. He believes that Arlington is a unique Town. He commented that he has met a lot of people who have moved here from other areas because they realized that Arlington is a Town about the people, not just business. He stated that while on occasion he has had arguments with the Board, he knew that the Board cared about the people of the Town. The Board thanked him for his comments.

Mayor Wissman recognized Babetta Boggs. Ms. Boggs advised that she comes before the Board with Anselmo Gonzales, owner of Pericos Restaurant located in zone SC in Arlington, TN. She stated that because English is not the first language for Mr. Gonzales, they have prepared a statement (on file) for her to read to the Board. She noted that they are in favor of the proposed amendment to allow on-premise beer permits in zones B-1, B-2, B-3, SC and BE. Ms. Boggs passed out a copy of the letter and then read the letter to the Board. Mayor Wissman advised Ms. Boggs that her time was up. She quickly added that Pericos already has an on-premise liquor permit and has never had any trouble as a result and alcohol sales are an immaterial part of their business and they don't foresee that changing. She stated that they think this would be good for the Town and thanked the Board.

Mayor Wissman recognized Michael Catlin, 5211 Summer Meadows Lane. Mr. Catlin advised that he is against the amendment. He noted that he has been a resident of Arlington for nearly 12 years. He stated that he moved here to raise a family in a quiet town. He noted that he teaches at White Station High School and drives 25 minutes and spends his gas money to and from so that when he drives home, the loudest thing he hears is the faint murmur of an 18 wheeler going by on the interstate. He suggested that if it ain't broke, don't fix it. He noted that he is all about growth, but he feels there is a way to do it. Mr. Catlin commented that he agrees with Mr. Harmon's statement that this may not be the right time. He asked that it be taken into consideration what many of the residents moved to Arlington for, what Arlington is all about. Mr. Catlin stated that he has also been an employee of Mr. Wise at Vinegar Jim's and he could not tell how many people have driven to Arlington for the specific purpose of eating at Vinegar Jim's because it was a nice, quiet restaurant in a quiet town and they enjoyed coming to Arlington because of the atmosphere and the fact that they are sick and tired of driving down Germantown Parkway in bumper-to-bumper traffic to feed their family. He commented that they have had customers from all over Tennessee come to eat and some of those people, based upon their experience, have actually moved to Arlington. Mr. Catlin asked the Board to stop for a moment and realize that there is a time for change. He requested that they consider what Mr. Harmon had to say and don't do this right now -- give this some more thought. He thanked the Board.

Mayor Wissman recognized Russell Wiseman, 12020 Country Valley Drive. Mr. Wiseman stated that he is doing the one thing that he swore he would not do after leaving office. He commented that he didn't know if anyone listens to country music, but if anyone has listened to the Alan Jackson song "Little Man", it is kind of what this is -- a small town thing. Mr. Wiseman noted that he has read about 15 to 20 books on planning and being unique is what makes a town thrive and grow. Mr. Wiseman stated that uniqueness is what Arlington is about. He noted that when the Town's population reaches its limit, attitudes will change. He stated that people are coming here for a reason and that reason is uniqueness. He advised that he disagrees with the people saying now is not the time, maybe later. He thinks that never is the time, that uniqueness is what makes a town thrive. He referenced Peachtree, GA, and Madison, MS, who have uniqueness that makes them stand out, and he believes Arlington has the same thing. Mayor Wissman thanked Mr. Wiseman and asked if anyone who came in late had any comments. Hearing no reply, he closed grievances and comments from citizens.

VI. COMMUNICATIONS FROM THE MAYOR

A. Shelby County Sheriff's Department Incident Report for the Month of December 2011.

Mayor Mike Wissman advised that the report for the month of December 2011 is on file and recognized Officer Fox who reviewed the report. Officer Fox advised all residents to be sure to keep doors locked for protection on both their homes and vehicles. Officer Fox asked if anyone had questions. Mayor Wissman asked for a review of the alleged incident regarding the female jogger. Officer Fox responded that he could not go into detail because the investigation is ongoing; however, he explained that she was out running as she normally does and as she was running an unknown subject behind her knocked her to the ground and began to assault her. She fought off the attacker and ran to a nearby residence. She banged on the door and was let in. She called the Sheriff's Department and they immediately responded. Officer Fox advised that within minutes of arriving on the scene they were able to get a good description. The deputies checked the area and apprehended a suspect who fit the description. The victim positively identified the suspect as the person who attacked her and an arrest was made. Mayor Wissman asked if anyone had any further questions. Vice Mayor Harry McKee suggested that Officer Fox be provided an e-mail address to send the report to the Board prior to the meeting. Catherine Durant, Recorder, advised that the report is usually in the Board packet; however, the person who prepares the report was not certain if there would be a meeting tonight because of the holiday, therefore, the report was prepared on short notice. Officer Fox advised that the information is also on the Sheriff's Department website for those who are interested.

B. Committee Appointments

Mayor Mike Wissman noted that committee appointments have been ongoing for the last couple of months. He advised that a member of the Planning Commission was removed for failure to meet the State of Tennessee required four hours of training for 2011 as well as for his participation record. Mayor Wissman noted his recommendations for the following committee appointments:

He advised that Larry Harmon has made a request to serve on the Planning Commission; therefore, he is making a recommendation to remove Larry Harmon from the Board of Zoning Appeals and appoint him to the Planning Commission.

After conferring with Mr. Ed Haley, Town Superintendent, he made a recommendation to appoint Samuel Murrell to the Board of Zoning Appeals to fill Mr. Harmon's position.

He advised that he is recommending the appointment of Janella Stockdale, who has an extensive resume in education, to the Library Board.

Mayor Wissman noted that all committees are full with the exception of the new Health and Safety and Parks and Recreation committees and vacancies on these committees will be appointed by the Chairman, Oscar Brooks. Mayor Wissman then called for a motion to approve.

Main Motion: Alderman Gerald McGee made a motion to approve the Committee Appointments. Vice Mayor Harry McKee seconded the motion.

Mayor Wissman called for discussion. There was no reply.

Vote on Motion: The motion carried unanimously.

C. Other as properly presented

Mayor Mike Wissman thanked the citizens present for coming to the meeting. He recognized that some of the issues presented are of importance to them and he advised that when presented he will explain how the issue came up and why we are here. Mayor Wissman then advised the following:

1. The porta-johns have been removed from Hughes College Hill Park and time locks have been installed on the park restrooms which will open at 7:00 a.m. and close at 7:00 pm, seven days a week. He noted that although the doors lock at 7:00 pm, if someone is using the facilities at that time, the person will be able to open the door and exit the restroom. Staff will continue to monitor the cleanliness of the restrooms.
2. The Depot Square Master Development Plan has been out for proposals. We received a total of ten proposals, and following Staff review, we should have a recommendation by next week. There will be a series of public hearings so that the Town can get public input regarding this project and the process should be completed by late summer.
3. Regarding the schools issue, the Town has in its contract that by January 16th the consultants will provide their report. Once a date is set, Mayor Wissman, Ed Haley and Catherine Durant will be meeting with the consultants to discuss how to proceed. A public report will be put out as soon as possible.
4. With the issues being presented tonight, as well as with past issues, Mayor Wissman advised that he has been getting a lot of phone calls. He felt it necessary to inform the public that he does not discuss town issues or agenda items on social media. He advised that there are laws, such as the Sunshine Law,

that dictate what elected officials can and cannot discuss and these laws must be followed. He asked for the public's understanding.

5. Mayor Wissman made a statement for the record that the Town received seven letters regarding Ordinance 2012-01, six were in favor and one was against.
6. There was nothing further to come before the Board.

VII. COMMITTEE REPORTS

All committee reports, including the Treasurer's Report and financial reports, for the month of December are on file at Town Hall and have been provided to the Board. Mayor Wissman asked if anyone wished to report on their committee. There was no reply. Mayor Wissman then called on Vice Mayor Harry McKee to read the Treasurer's report into the record.

VIII. OLD BUSINESS

A. Other as Properly Presented

There was no old business brought forward.

IX. NEW BUSINESS

A. Resolution 2012-01 to authorize an agreement with NAFECO for the purchase of personal protective equipment (Turnout Gear) for the Arlington Fire Department

Mayor Mike Wissman called for a motion.

Main Motion: Vice Mayor Harry McKee made a motion to approve Resolution 2012-01. Alderman Brian Thompson seconded the motion.

Mayor Wissman recognized Chief Dennis Rutledge who advised that the Town advertised for bids and received four. He noted that the company that was low bid, Heritage Fire Equipment, took seven exceptions to the bid that we had put forth, two items of which we thought were critical issues, one being the lining on the pockets for protection. The exact same pocket that they were saying was adequate, we found not to be adequate because tools are poking holes in the pockets, so we had asked for reinforcements. They wanted to leave that off. They also wanted to leave off a safety issue regarding reflective trim and with that we asked that this bid be rejected. The second lowest bid was North Alabama Fire Equipment Company as requested. Chief Rutledge explained that this is something that is done periodically in order to cycle out the turn-out gear instead of doing it all at one time. He noted that this is the third of three replacements in the cycle. Mayor Wissman called for further discussion. Hearing no reply, Mayor Wissman called for a vote.

Vote on Motion: The motion carried unanimously.

- B. Resolution 2012-02 to authorize a Private Grade Crossing Agreement with CSX Transportation, Inc.

Mayor Mike Wissman called for a motion.

Main Motion: Alderman Oscar Brooks made a motion to approve Resolution 2012-02. Alderman Brian Thompson seconded the motion.

Mayor Wissman recognized Mr. Ed Haley, Town Superintendent, to present the analysis. Mr. Haley advised that this is an agreement with CSX for a private railroad crossing at Gerber Road. He stated that the cost will be \$11,200 initially with an annual fee of \$285 plus an annual replacement fee of \$1,120. Mr. Haley noted that the Town has a separate agreement with MLGW to pay a portion of the annual replacement fee.

Mayor Wissman called for discussion. Vice Mayor Harry McKee asked for a clarification regarding the site clearance area. Mr. Haley replied that the total area that is involved is 75 feet in either direction and back 30 feet towards the road itself in a diamond shape on both sides of the track. The area is cleared and it will be kept cleared. Vice Mayor McKee asked who would be responsible for clearing in the event of a derailment. Mr. Haley replied that if the Town created the derailment, then the Town would be liable, but if someone else did, then they would be liable. There was a brief discussion regarding the contract. Mayor Wissman called for further discussion. Hearing no reply, he called for a vote.

Vote on Motion: The motion carried unanimously

- C. First Reading Ordinance 2012-01 to amend the Town of Arlington Municipal Code Title 8, Chapter 2, Section 232, Zoning restriction of alcoholic beverage retailers established.

Mayor Mike Wissman called for a motion to approve.

Main Motion: Alderman Oscar Brooks made a motion to approve the first reading of Ordinance 2012-01. Alderman Brian Thompson seconded the motion.

Mayor Wissman stated that this issue has raised a lot of talk around town, so he wanted to explain how we got here. He noted that this issue was not brought up by him, the Aldermen or the Town Staff, but was brought to their attention by various people throughout the Town – citizens and business owners. He noted that this issue was brought up before he was elected. Since then he has talked with some of the Downtown business owners as well as Town Staff to get their thoughts and also to find out the history behind the current ordinance that was put in place in 2005. He then decided that the Board should look at this issue and this required being heard in a public forum, not behind closed doors. He clarified that this is not to allow alcohol to be sold anywhere in Town. He advised that the state controls where liquor can be sold, and the Town controls where beer can be sold. So in commercial districts, state-approved liquor can be sold by the drink, beer cannot, with the exception of the BE and B-3 districts. Mayor Wissman stated that he went to the attorneys and asked if the Town could look at allowing beer permits in a few more commercial zoning districts. He noted that there is over 15,000 acres in Arlington and the BE and B-3 districts are roughly 200 acres. He stated that the

attorneys advised that to spot zone is picking and choosing; therefore the ordinance would have to be a blanket ordinance for the commercial zoning districts already in place and not a spot zone. This explains why the Town would need an amended ordinance. Mayor Wissman commented that some citizens think that this has been brought forward because of possible litigation by Pericos Restaurant and he stated that there has been no threatening of litigation by Pericos. He noted that this item was on the agenda before the Town Staff met with Pericos. He clarified that Pericos has been asking to aid in a solution to this issue since 2008. He reiterated that this is not a personal agenda by him or the Town and the Town is not changing any of the zonings that are already in place.

Mayor Wissman opened the floor for Board discussion and recognized Vice Mayor Harry McKee who advised that he wanted to provide some facts on this issue and wanted to address mainly the BE district. He stated that when he saw this ordinance he wanted to make sure that he studied it to determine what we should do. He commented that he talked to developers and landowners in the BE-Business Entertainment District which is along Highway 70 from Airline Road to the TDOT property. He noted that the Town has 115 acres of undeveloped property in the BE District that the owners are more than willing to develop. He advised that by his calculations, there could be 57 restaurants developed in the BE District; therefore, the Town is not keeping the restaurants from coming – they will come if they want to. Vice Mayor McKee addressed the concern regarding increased crime and noted that there are no statistics to support the notion that crime would increase, but there is also no statistics to support that crime would go down. He commented that he talked to some Cordova residents who said that they would love to have our ordinance because they are vigorously fighting the new Stella Maris restaurant. Vice Mayor McKee suggested that if the Board passes this ordinance amendment there should be time before going into effect because there are many things that need to be looked at and changed. He pointed out that there is a B-1, Neighborhood Commercial district in the Villages at White Oak and under an amended ordinance there could be beer sales. He noted that in the B-1 district requires 39 seats or less and this ordinance allows the establishment to sell beer but not liquor. He stated that this is one of those items that needs to be discussed. Vice Mayor McKee read a passage from the ordinance noting the paragraph referring to, “the BMA deems it necessary, for the purpose of promoting the health, safety, morals and general welfare of the Town...” He concluded noting that he believes everyone knows how he stands on this issue.

Mayor Wissman recognized Alderman Brian Thompson who stated that in his view this is about strategy, not control. He advised that he bases his votes and opinions on proven results, and what is in place now works. He noted that he believes that eventually the Town will need to either open up or extend the area which allows beer sales. He stated that he does not see any reason to change at this time, especially without putting in the due diligence. Alderman Thompson advised that there this is currently an incentive for businesses to locate in the BE and B-3 Districts and that incentive is worth preserving and protecting. He suggests that before taking the incentive away it should be replaced with something to encourage businesses to locate in Depot Square.

Mayor Wissman recognized Alderman Gerald McGee who advised that he made three notes during the comments from the citizens. He noted the comment about the hamstrung development along I-40 and asked if anyone knows of any restaurants that have not located here because of that. He stated that if any business wants to locate in Arlington, they have a procedure and process to go through to find out what is and is not

allowed in the Town of Arlington. Alderman McGee stated that he personally does not believe the Town has “hamstrung” anything. He then noted that another comment was regarding tweaks and he noted that this is not a tweak but a twist – twisting everything that has been diligently worked for since 2005. The BMA did not come up with the BE District in one or two meetings, rather it was a long process. He stated that the Town does not need to make this change in two nights. Alderman McGee noted the third comment that was made regarding economic sufferings and pointed out that the business moved from a place where beer sales were allowed to a place where they knew that they could not sell beer. Alderman McGee reiterated the sentiment of why change. The Town has a community and established businesses that are doing well or they would not be here. He stated that his personal opinion is that no change is necessary.

Mayor Wissman asked Heather Sparkes, Town Planner, to address how businesses contact the Town. Ms. Sparkes replied that there are a couple of different ways. She stated that most national companies hire companies to do their due diligence, the actual company does not contact the Town. The interested company will have this hired company look through websites, do anonymous investigations to get the information they need. They are very savvy about reading ordinances and understanding zoning regulations. She noted that this goes on without the Town’s awareness. She stated that the Town usually hears via developers, property owners, real estate agents, etc., that someone is looking at a piece of property. Ms. Sparkes advised that the Town also hears from developers that they have a certain company looking at a property in a particular location and ask her to advise what zoning is in that location and what the particulars are for this company to locate. Ms. Sparkes advised that she will meet with an interested party and give them all the information they need, and then as developers become more specific about where they want to locate and build, and they have talked with their real estate agent, looked at costs of properties, traffic counts, etc., then the Town gets more specific and will sit down and review site plans and talk more specifically about the processes required and development costs.

Mayor Wissman recognized Alderman Glen Bascom who stated that he thinks they are moving too fast on this subject. He noted that he has been on the Board since 2003 and along with other Aldermen helped create the BE district and allow beer sales. He noted that there was a huge crowd present at that particular meeting and the subject was controversial. He advised that approval was granted to encourage growth in this part of town. Alderman Bascom noted that there would most likely have been more growth if it were not for the ongoing economic crisis; however, he believes the economy is slowly coming back. He stated that he does not want to open up beer sales all over town because of the impact that would have on the BE and B-3 districts. He stated that a plan needs to be in place to help those particular districts if beer sales were to be approved for other commercial zoning districts. Alderman Bascom commented that prior to the BE zoning, the area was zoned B-2, which is the best zoning in Arlington because it is the most lenient zoning and allows a lot of businesses, so he suggested that if beer is to be allowed in more areas, the BE needs to be returned to B-2 zoning and there needs to be more incentive programs to encourage growth in that area. Alderman Bascom then noted that the Town is spending money on a Master Plan for Depot Square and he believes the BMA should see the plan before making any decisions. He stated that he thinks beer sales should be taken out of the B-1 district and possibly eliminating the B-1 zoning altogether and merging it with something else. He noted that there are a lot of unknowns to consider with regard to beer sales. He suggested that the distance from churches and

schools should be considered in the decision. Alderman Bascom noted that one day there will be development along Highway 70, I-40 and Highway 64 which are excellent locations for restaurants; however, right now it is slow. He stated that the Town needs more rooftops before making a change, and suggests that the Town hold more public work sessions before making a decision.

Mayor Wissman recognized Alderman Jeff McKee who agreed with Alderman Thompson regarding timing, noting that when you buy property it is location, location, location; however when you develop a town it is about timing. He commented that in 2005 when the ordinances and zonings were created, it was time. However, he does not believe the Town has reached its peak and more time is needed. Alderman McKee stated that he believes at some point the Town will have to open this up; but now is not the time. He noted that he believes the reason Arlington has grown so much is because of the schools and the uniqueness of the Town and he does not want to take that away before the Town reaches its potential of growth which he feels may be ten years from now. He concluded by saying that he is concerned about moving in a direction before the timing is right and he does not think that now is the time.

Mayor Wissman recognized Alderman Oscar Brooks who stated that all he will ask is how many truly believe that the small town charm of Arlington will remain if every acre of the BE and B-3 Districts sold beer. He commented that everyone keeps talking about small town charm and that these are the areas of town that you want to protect, yet these are the only areas of town allowed to sell beer. He suggested that this be kept in mind. Alderman Brooks noted that he believes the future growth of Arlington will border along I-40 and 385, not in the BE and Depot Square areas. He suggested keeping the small town charm in Depot Square because people make the Town, not what is in it.

Mayor Wissman stated that he wanted to make a comment before calling for further discussion. He advised that although it may seem like he is in favor of this amendment, the truth is he is not sure how he feels about it. He stated that he thinks this is more than just about selling beer which he really is not for or against. It is about where to encourage growth of restaurants that want to sell beer. He stated that his concern is moving forward, the zoning issue, Milton Wilson is opening up this spring and 385 opening up at the end of the year, where the zoning issues are. It doesn't matter if it is a national chain or a local restaurant that serves alcohol or doesn't or if it is ten or 15 fast food restaurants, the Town will still have growth, whether it comes or not. It comes down to what kind of restaurant you want for the area. This is why he wanted to have this discussion now. It is something that the Town needs to look at now to avoid regrets in the future. Mayor Wissman called for further discussion.

Vice Mayor Harry McKee stated that in the event this amendment gets passed he would like to make a motion to amend it to not allow it to take effect until August 1, 2012, because he believes it would take that long to work on and get rid of things that need to be cleaned up. He asked Mr. Lawson to verify when this amendment as currently written would take effect. Gerald Lawson, Attorney, replied that it would take effect after approval on the second reading. Vice Mayor McKee stated that the Board would not be ready for that effective date and restated his motion

Primary Amendment: Vice Mayor Harry McKee made a motion to amend the main motion to read that upon approval on second reading, change the effective date to August 1, 2012. Alderman Oscar Brooks seconded the motion.

Mayor Wissman called for discussion. Hearing no reply, he called for a vote.

Roll Call Vote on Motion: Bascom – Yes; Brooks – Yes; McGee – Yes; H. McKee – Yes; Thompson – Yes; J. McKee – Yes; Wissman – Yes. The motion carried unanimously.

Mayor Wissman called for further discussion on the main motion. Hearing no reply, he called for a Roll Call vote.

Roll Call Vote on Motion: Bascom – No; Brooks – Yes; McGee – No; H. McKee – No; Thompson – No; J. McKee – No; Wissman – Yes. Yes – 2; No – 5 – Motion Fails.

D. First Reading Ordinance 2012-02 to amend the Town of Arlington FY 2011/2012 Budget

Mayor Mike Wissman called for a motion to approve.

Main Motion: Alderman Brian Thompson made a motion to approve first reading Ordinance 2012-02. Alderman Oscar Brooks seconded the motion.

Mayor Wissman called for discussion. Hearing no reply, he called for a vote.

Vote on Motion: The motion carried unanimously

E. A request by Living Word Lutheran Church to defer roadway improvements to Highway 70.

Mayor Mike Wissman called for a motion to approve.

Main Motion: Alderman Jeff McKee made a motion to approve request to defer roadway improvements to Highway 70. Alderman Oscar Brooks seconded the motion.

Mayor Wissman called for discussion and recognized Heather Sparkes, Town Planner, for analysis. Ms. Sparkes advised that the request is by Living Word Lutheran Church who received a conditional use permit to build a church on property located on Highway 70 between Lamb Road and Cleaves Circle. The request is to defer road improvements along Highway 70 with the exception of 60 feet north of the entrance. Ms. Sparkes advised that she provided a site plan in the Board's packet so that they could get a visual on what is being requested. It was asked if the current entrance drive will be changed. Ms. Sparkes replied that the entrance drive will be on the south portion of the site; however, the frontage is on Highway 70. She noted that the Planning Commission reviewed the site plan in November 2011, and the request was made to defer the majority of road improvements which is about 279 feet. The Planning Commission suggested in its recommendation to the Board of Zoning Appeals that road improvements for the entire frontage need to be completed with Phase 1. When the Board of Zoning Appeals

reviewed the request on December 6, 2011, for the conditional use permit, the request for road deferral was again made. The conditional use permit was approved with a condition that all of the road improvements for the entire frontage be completed with Phase 1. Ms. Sparkes stated that the request tonight is to defer about 279 feet of road improvements to be completed with future phases. She noted that the Planning Commission and the Board of Zoning Appeals in their discussions of this request were concerned about the timing of future construction, not knowing exactly when that would occur and the concern that the residents of the Town of Arlington would have to pick up any costs that may not be covered thereby placing a burden on the taxpayers. She noted that safety along the highway was also addressed as well as concern about setting a precedent. Ms. Sparkes provided a brief history going back the last three years. She noted that since she has been here, every development that has come in has been required to make road improvements, including development on the other side of Highway 70 for the Animal Hospital which is currently under construction, and the subdivision on Kerr Street that made a request to the Board to defer road improvements and was denied. Ms. Sparkes noted that there have been projects in the past beyond three years where the Town has allowed road deferrals; however, these deferrals have yet to be made and have become a problem for the Town. Ms. Sparkes advised that she has made a recommendation to the Planning Commission and still recommends that all road improvements be required with the first phase of this project along Highway 70 with reasons stated by the Planning Commission and the Board of Zoning Appeals. Ms. Sparkes advised that Steve Hill, Town Engineer, would present his recommendations. Mr. Hill stated that he concurs with the recommendation to require improvements now and avoid setting a precedent as well as creating future problems for Staff who would have to stay on top of any deferral.

Mayor Wissman called for discussion and recognized Alderman Brian Thompson who noted that he is sympathetic to difficult situations created by a tough economy; however, he is not going to go against Staff's recommendation. Alderman Gerald McGee stated that he is aware of a couple of projects that were given deferrals, not necessarily road improvements but other issues, and one took two owners and a number of years to get completed. Alderman McGee advised that he could not agree with something that may require the taxpayers to pay for.

Mayor Wissman called for further discussion. Ms. Sparkes advised that the applicant was present. Mayor Wissman recognized Pastor Jason Peterson, Living Word Lutheran Church, 11974 Walker Street. Pastor Peterson explained that the church is not trying to skirt their responsibility of not doing the road work. He advised that the main concern is the "sidewalk to nowhere" which they realize will be important as the Town develops. He noted that at this time there is no developed property on any adjoining lots. He noted that there are no sidewalks anywhere in the region around them, and their hope is to defer the sidewalk until there was development on either side of the church or in the nearby area. He noted that the church would agree to a time frame for construction of the improvements. He stated that they are a church that is part of a larger church body so this would be a means to ensure they fulfill their obligation and not become a nightmare for the Town. He suggested that all the development being done on the site should benefit future development in the area. He advised that the sidewalk would require barriers at each end and their concern is that if nothing comes along within a reasonable amount of time, the sidewalk would start to deteriorate. He suggested that it would be more cost-effective to go in with another developer to create a sidewalk for the area rather than having someone tie into an older, deteriorating sidewalk. Pastor Peterson advised that

their other concern is the culvert. He noted that a small portion of this culvert is on their land and the rest of it is located on land opposite theirs and if this is something that could be deferred as well so that they are not developing someone else's property. Mayor Wissman stated that the Board can appreciate their situation what with the economy and what they are trying to do, but knowing how historically the Town has been left with problems from deferrals, it has been the Board's desire not to allow deferrals so that problems don't result.

Mayor Wissman recognized Grant Mills, Chris Woods Construction, who made a proposal to do the improvements under three different instances: 1) do immediately when development occurs on either side of the property; 2) do as Phase 2 of the Master Plan; 3) at a time that the Board determines, whichever comes first. Alderman Thompson advised that he is not comfortable with open-ended proposals and went on to say that in two or three years the Board may have different members, and therefore the current members must determine what they are willing to do right now. Mr. Mills suggested that a contract agreement be made with the Town. Alderman Gerald McGee noted that the Town does that with every development in the Town, and that the Town has had its share of developers who have gone bankrupt. He noted that even with a bond, there may not be enough money and the taxpayer ends up making up the difference. Alderman McGee stated that he could not with a clear conscience approve a deferral. Alderman Glen Bascom suggested that it would be cheaper to do the road improvements now rather than in two or three years. He stated that a bond would be required which costs money and noted that bonds are harder to obtain in today's economy. He suggested that the church may be able to do a payment in lieu for the sidewalk, but it will cost nearly as much money as building the sidewalk. Mayor Wissman called for any further discussion.

Mayor Wissman recognized Gary Trouches, a member of Living Word Lutheran Church, who advised that the church has existed since 1963 and in a couple of years they will be celebrating their 50th anniversary. He noted that part of the reason they purchased land in Arlington is because the Town is all about growth, whether spiritually or financially. He advised that growth for the church means coming to a growing community with people who will be moving in and looking for a church. Mr. Trouches noted that the Town has quite a few issues that they are dealing with at this time, but part of the discussion previously was about not wanting to make change. He agreed that issues involving change can be tough. He suggested that if the Board allows deferrals on the sidewalk, the Town will not have to be making changes. He noted that when you drive from Arlington Town limits all the way through the Depot area, there is not one sidewalk on either side of Highway 70. He suggested that if the Town does not want to make change, give the Church the deferral on the sidewalk. He stated that he has heard a lot of talk about the uniqueness of Arlington and asked if the uniqueness the Board wants is a 300 foot sidewalk where there are no other sidewalks. Ms. Sparkes clarified that the improvement is not just the sidewalk, it is an additional lane on Highway 70, installation of curb and gutter, the sidewalk, and barricades on the actual turning lane. Mayor Wissman called for further discussion. Hearing no reply, he called for a vote.

Vote on Motion: The motion failed.

F. Other as properly presented.

There was no other new business to come before the Board.

X. APPROVAL OF BILLS

Motion: Alderman Brian Thompson made a motion to approve bills for payment. Vice Mayor Harry McKee seconded the motion.

Mayor Wissman called for discussion. Hearing no reply, he called for a vote.

Vote on Motion: The motion carried unanimously.


XI. ADJOURNMENT

Motion: Vice Mayor Harry McKee made a motion to adjourn. Alderman Brian Thompson seconded the motion. The motion carried unanimously.

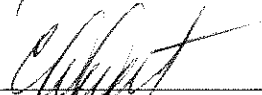
Meeting adjourned.



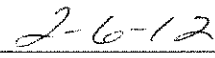
Mike Wissman, Mayor



Date



Catherine D. Durant, Recorder



Date

Submitted By: Theresa Smith, Planning Clerk