

**RECORD OF PROCEEDINGS
PUBLIC HEARING
MONDAY, APRIL 8, 2019 6:45 P.M.
MAYOR WILLIAM G. KOONS PRESIDING**

MEMBERS PRESENT: Canton, Carroll, Galicki, Nairn, Porter, Schloss

OFFICIALS PRESENT: Fiscal Officer Romanowski, Solicitor Matheney

Mayor called the Public Hearing to order at 6:45 p.m. regarding a change to zoning law. The Fiscal Officer read the roll. The Mayor stated that the Public Hearing was to discuss proposed modified recommendations from the Planning Commission to amend the definition of a streamer in the Village Zoning Code. The Mayor stated,

“We are commencing the noticed public hearing of the proposed amendment to South Russell Village’s zoning code. The proposed amendment is to the definition of “streamer” in South Russell Village’s zoning code as the current zoning code prohibits to commercial establishments to indicate they are open for business by placing an “Open” flag at their business. In December, Council initiated an amendment to the zoning code (“proposed amendment”) to add a second sentence to the definition of “streamer” in Section 2.01(115) of the zoning code as follows: “A flag not to exceed three feet by five feet indicating a commercial establishment is open for business shall not be considered a streamer.” Our amendment process requires our Planning Commission to consider any proposed amendment to SRV’s zoning code. In January, the Planning Commission did consider the proposed amendment and has recommended to Council that such proposed amendment be modified (“recommended modification to the proposed amendment”) to the following as the second sentence to the definition of “streamer” in Section 2.01(115) of the zoning code: “ A flag not to exceed 3 feet by 5 feet in size affixed to a commercial structure solely with the word ‘Open’ indicating a commercial establishment is open for business during business hours shall not be considered in the definition of a streamer.” If anyone from the public would like to speak regarding the proposed amendment and/or the recommended modification of the proposed amendment, I’ll ask that you raise your hand, state your name and your address, and address council.”

There were no public comments.

Porter provided background for the proposed zoning change. He advised that the Building Committee met with the former Building Inspector about a local business flying an “open” flag contrary to the Village ordinances. The business was asked to take the flag down, which it did. Because of the importance of the “open” flags for the businesses for visibility, Nairn proposed the Building Committee consider the issue. The Building Inspector examined the zoning code and proposed possibly amending the code by changing the definition of “streamer”, under which an “open” flag would fall. Porter further advised that a change in the zoning code could come

from Council or Planning Commission. Council proposed the change in the ordinance language to Planning Commission, and the Planning Commission recommended a second definition. The second definition clarified that the business would only display the flag during business hours. Porter recommended that the zoning code be modified with this definition. With it being spring, Porter suggested that the readings be waived and the ordinance passed by emergency to assist the Village businesses with immediate use.

Nairn urged that the ordinance be passed in the interest of the Village's small businesses. Nairn added that she had been in contact with the owners of the Tame Rabbit, who experienced visibility issues because of the darkness in the early morning.

Galicki asked the Solicitor whether the ambiguity of the earlier definition had been removed, and the Solicitor thought that the current verbiage narrowed the scope of the ordinance.

Porter added that the U.S. Supreme Court struck down a flag burning ordinance because it could not come up with a definition of a flag. He stated that it would be up to the business owners and Building Department to ensure that a 3' by 5' flag is the maximum size of flag for this ordinance.

Nairn asked if the pole for the flags had been discussed, particularly that there was no specification that the pole be wood or metal. Porter advised that they had discussed how the flag would be attached to the building. Planning Commission's recommendation, "affixed to a commercial structure" would suffice.

The Solicitor stated that Council could propose that the ordinance be modified again, still moving forward with passing it. It would not have to go back to Planning Commission. She further advised she would require time to prepare it and get it to Council for the next Council meeting. Porter stated he would be in favor of keeping the ordinance as written.

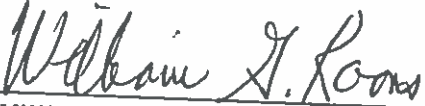
Schloss stated that the Tame Rabbit is extremely happy that the ordinance is being passed.

The Mayor asked Porter to clarify which of the two ordinances Council would be considering, and Porter stated it was the Planning Commission's recommendation, which was a three-line sentence. The Mayor instructed Council that it had the right to deny the proposed amendment and/or recommended modification to the proposed amendment. It would move to adopt the ordinance, approving the proposed amendment, the modification to the proposed amendment and/or any other modification that may have the proposed amendment and place such ordinance on a first reading or to waive the three readings and with a 2/3 Council vote to waive, then Council may adapt the ordinance and the proposed amendment. This will be addressed in the Regular Council meeting in the Ordinances and Resolutions.

Porter added that the Mayor and Building Department would notify the Village businesses that they are now able to utilize "open" flags.

The Solicitor asked how the public would be notified. The Fiscal Officer advised that the ordinance would be posted outside Village Hall, and the Mayor added that he could circulate the information through the Chamber of Commerce. Porter suggested an eblast. He stated that the flags could be flown the next morning.

ADJOURNMENT: Being that there was no further business before Council, Porter made a motion to adjourn, seconded by Nairn. Voice vote – ayes, all. Motion carried.



William G. Koons, Mayor



Danielle Romanowski, Fiscal Officer

Prepared by: Leslie Galicki