

**MOTION:** Way

**September 27, 2010**

**SECOND:** Wolfe

**Regular Meeting**

**Res. No. R-2011-26**

**RE: REGULATION OF SEXUALLY ORIENTED BUSINESSES**

**WHEREAS**, the City Charter and the Virginia Code grant the City Council the power to adopt ordinances to protect the security, general welfare, education, morals, peace, good order, comfort, convenience, government, health, trade, commerce and industries of the City and its inhabitants; and

**WHEREAS**, sexually-oriented businesses have been found to produce negative secondary effects—especially when such businesses are geographically concentrated—in the form of increased crime, reduced property values, and diminished quality of life; and

**WHEREAS**, the City Council desires to protect and respect all constitutionally-protected rights; and

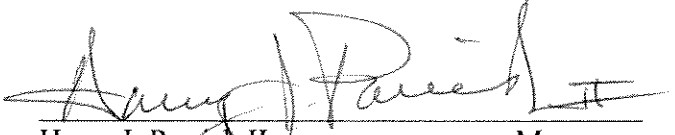
**WHEREAS**, regulation of sexually-oriented businesses has the potential to infringe property rights and the rights to freedom of expression and freedom of the press; and

**WHEREAS**, for those reasons, adoption of an ordinance to regulate sexually-oriented businesses requires careful review of available information about negative secondary effects and legal precedent regarding ordinances adopted around the nation, followed by application of reliable information to the conditions found in the City;

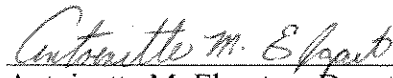
**NOW, THEREFORE, BE IT RESOLVED**, that the City of Manassas does express its intent to regulate sexually-oriented businesses to the fullest extent permitted by the Constitution and laws of the United States and the Constitution and laws of the Commonwealth of Virginia, for the purpose of preventing or reducing any negative secondary effects associated with such businesses;

**BE IT FURTHER RESOLVED**, that the City Council directs the City Manager and City Attorney to retain, on behalf of the City and consistent with the attached work plan, such consultants as may be necessary to collect reliable information regarding any negative secondary effects of sexually-oriented businesses and, using that information, prepare a set of legally defensible ordinances to maximize the protection of the City and its inhabitants.

**September 27, 2010  
Regular Meeting  
Res. No. R-2011-26**

  
\_\_\_\_\_  
Harry J. Parrish II Mayor  
On behalf of the City Council  
Of Manassas, Virginia

ATTEST:

  
\_\_\_\_\_  
Antoinette M. Elgart Deputy City Clerk

**Votes:**

**Ayes: Aveni, Bass, Harrover, Randolph, Way, Wolfe**

**Nays: None**

**Absent from Vote: None**

**Absent from Meeting: None**

**City Council of Manassas Virginia**  
**Resolution R-2011-26 Action Plan**  
**REGULATION OF SEXUALLY-ORIENTED BUSINESSES**  
**September 27, 2010**

**Existing Sexually Oriented Businesses**

1. Obtain outside legal “second opinion” on the validity of existing permits; estimate \$3k

**Prospective Sexually Oriented Businesses**

1. Principles:
  - a. Dispersal – minimum distance from each other; no “combat zone”
  - b. Protection – minimum distance from protected uses (schools, churches, playgrounds, day care centers, youth activity centers, parks, library).
  - c. Leave room for required “free expression;” Consider Industrial Zones
  - d. Expand existing protections (obscenity; juveniles)
2. Retain legal expert to prepare the legislative record supporting zoning and licensing legislation of SOBs.
  - a. Necessary to justify legislation where “free speech” is an issue
  - b. Staff will select expert through RFP after consultation with Mayor and Land Use Chair
  - c. Estimate \$30-50k; 6 weeks
  - d. Cover legislative justification and proposed ordinance language based on it.
  - e. City Attorney will evaluate final work product; cost within existing contract.
3. Obtain outside expert legal “third opinion”
  - a. To fully evaluate proposed ordinance
  - b. Estimate \$10k; 4 weeks
4. Staff will prepare GIS maps showing
  - a. protected land uses and protection areas
  - b. Areas where SOB “free expression”
  - c. Estimate \$3k contractor cost; simultaneous with legislative study
5. City Attorney develop prohibition ordinance of SOB activities not having “free speech” protections
  - a. Simultaneous with legislative study
  - b. Some prohibitions may be retroactive for health/safety reasons
  - c. Council may desire second opinion from outside expert counsel; Estimate \$5k
6. City Attorney develop licensing ordinance
  - a. Owners/operators do not have relevant, serious criminal records (if we’re allowed)
  - b. Performance criteria allowing regulation of time, place and manner
  - c. Criteria for suspension or revocation
7. City Attorney evaluate a stopgap SOB zoning ordinance
  - a. Comprehensive SOB ordinance with full Planning Commission and Council review can take until end February 2011 to complete.

- b. Stopgap can be developed quickly using PWC model
- c. Council examine and adopt PWC legislative record
- d. Would structure the environment during comprehensive ordinance

**Summary Project Budget:**

Existing SOB permit Second Opinion	\$3,000
Prospective SOBs	
Legislative History & Ordinance Text	\$50,000 (estimated; requests for proposals)
GIS mapping contract	\$3,000
Third Opinion on draft zoning ordinance	\$10,000 (estimated)
Second Opinion on Licensing ordinance	\$5,000
Staff Time	within existing budgets
Total New Budget	\$71,000

**Summary Project Schedule For Prospective SOBs:**

Legislative History/Ordinance Text	Oct 31, 2010
Second and Third Opinions	Nov 30, 2010
Planning Commission Reviews/Approval	Jan 15, 2011
Council Reviews/Approval	Feb 28, 2011
Second Opinion on existing SOBs	immediately

**Prospective non-Sexually Oriented Businesses**

1. LUC sub-committee to develop list of other businesses which may have deleterious impacts
  - a. Some protected by “free speech” or “privacy”; some not
  - b. Recommend city-wide actions and potentially more extensive Old Town or Arts and Entertainment District actions
2. Council review and take appropriate actions
3. Sequentially after SOB regulations completed

**Project Schedule for Prospective Non-SOB**

Identify business types of interest	Feb 28, 2011
Identify actions consistent with SOB plan	Mar 31, 2011
Draft appropriate legislation	May 15, 2011
Planning Commission Reviews/Approval	Jun 30, 2011
Council Reviews/approval	Aug 15, 2011