

**CITY OF WINNFIELD
SPECIAL MEETING
December 1, 2020**

The special meeting of the Mayor and City Council was called to order at 2:35 pm, December 1, 2020 by Mayor George Moss. Those present in addition to Mayor Moss were Councilpersons Miller, Junkin, and Phillips, Hamms, Katina Smith, City Clerk, and Herman Castete, City Attorney.

Agenda Amendments

None

Guest and Audience Participation

1.Ross Preston introduce Electronic Traffic Controls.

Ross Preston with Redflex Traffic Systems introduce Electronic traffic controls, and the following Ordinance was offered for adoption

Ordinance 12 of 2021

Chapter 13, Section IV

An Ordinance amending Chapter 13, Operation of Vehicles, Generally, adding Electronic Enforcement, Speed Limit Enforcement, Traffic Signal Enforcement, and Traffic Signage Enforcement Sections and Provide for Civil Penalties for Traffic Violations Enforced by Automated/Photographic Evidence.

WHEREAS, the City of Winnfield, Louisiana finds there has been a high incidence of drivers violating the speed limit, traffic signal, and traffic sign laws within the City of Winnfield, Louisiana; and,

WHEREAS the Council of the City of Winnfield finds that violating these traffic laws endangers motor vehicle operations and pedestrians alike; and,

WHEREAS the Council of the City of Winnfield finds and determines that vehicles traveling in excess of the posted speed limits damage the public safety by endangering motor vehicle operators and pedestrians alike, by decreasing the efficiency of traffic control and traffic flow efforts, and by increasing the number of serious traffic crashes to which public safety agencies must respond at the expense of taxpayers; and,

WHEREAS the Council of the City of Winnfield finds a reduction in violations of the speed limit, traffic signal, and traffic signs through a program utilizing electronic measurement and photographic evidence and enforcement through the imposition of civil penalties will help promote and protect the health, safety, and welfare of the citizens of the City of Winnfield; and,

WHEREAS, the City of Winnfield, operating under the powers granted to it by the Larason Act, has the power and authority to establish a program of enforcement of posted speed limits, traffic signals, and traffic signage by the use of electronic measurement and photographic evidence and the imposition of civil penalties.

Be it ordained by the Council of the City of Winnfield that the current Code of Ordinances relative to OPERATION OF VEHICLES, GENERALLY, is hereby amended by adding thereto and Article IV entitled ELECTRONIC/PHOTOGRAPHIC ENFORCEMENT, to read as follows:

Article IV ELECTRONIC/PHOTOGRAPHIC ENFORCEMENT

Section 13:61 Definitions

The following definitions shall apply:

(1) Owner shall mean the owner of a motor vehicle as shown on the motor vehicle registration records of the Louisiana Department of Public Safety, Office of Motor Vehicles, or the analogous department or agency of another state or country.

(2) Electronic/Photographic Speed Limit Enforcement System shall mean a system that:

a) Consists of a system for electronic measuring the speed of a motor vehicle; either in an Officer operated mode or unmanned mode; and,

b) Includes a still camera system and/or full motion video camera system. The full motion video camera system shall be capable of recording 30 frames per second or greater: and,

c) Clearly capture the license plate of the subject vehicle.

Section 13:62 Imposition of civil penalty for violations enforced by Electronic/Photographic Speed Limit Enforcement System.

(1) Except as provided in (2) and (3) below, the owner of a motor vehicle is liable for a civil penalty \$125.00 if the motor vehicle proceeds at a rate of speed of 10-14 miles per hour in excess of the posted limit or limit set by law, \$150.00 if the motor vehicle proceeds at a rate of speed of 15-25 miles per hour in excess of the posted limit or limit set by law, and \$225.00 if the motor vehicle proceeds at a rate of speed over 26 miles per hour in excess of the posted limit or limit set by law. The owner of a motor vehicle is liable for a civil penalty of \$100.00 if the motor vehicle is operated without displaying a valid license plate or registration.

(2) For a violation occurring in a roadway when a School Zone is in operation the civil penalty set for in Section 13-62(1) above, fines will be doubled.

(3) An owner who fails to timely pay a civil penalty shall be subject to an additional late payment penalty of \$50.00 in addition to the original violation penalty.

(4) If at the time of the violation, the vehicle was in the care, custody, or control of another person:

A) As set forth in the owner's written statement identifying the name and correct mailing address of the person or entity that had the care, custody, and control of the vehicle at the time of the violation.

B) As set forth in a document or "Nomination", signed and dated by the person, or a representative of the entity, who had the care, custody and control of the vehicle at the time of the violation, indicating his/her responsibility for the violation and listing his/her name and mailing address. Responsibility for the violation shall in such a case be transferred to the person identified in the "Nomination."

C) The tender of a statement of "nomination" shall be for the sole purpose of identifying the person who is assuming responsibility for the violation identified in the notice of civil violation, but all defenses that may be asserted by the person alleged to be responsible are reserved and are not waived by the tender of such document.

D) As set forth in a lease, rental contract or other agreement listing the name and mailing address of the person or entity who had care, custody, or control of the leased or rented vehicle at the time of the violation. Responsibility for the violation shall in such a case be transferred to the lessee.

Section 13-63 Enforcement; procedures

(1) The Winnfield Police Department is responsible for the enforcement and administration of this ordinance. The Winnfield Police Department may utilize a contractor to assist with gathering of photographic and electronic evidence of violations for the Winnfield Police Department to be used as evidence in order for the Police Chief or his designee to determine if a violation notice is to be issued. The Winnfield Police Department may set minimum parameters for the Contractor to apply to potential

violations that are transmitted for the Police Chief, or his designee, examination and final disposition as an issued notice or rejection notice. The decision to issue or not issued the notice of violation rests entirely with the Police Chief.

If the Winnfield Police Department uses a contractor for any portion of the enforcement or administration of this ordinance, then the contractor shall meet the following minimum criteria:

- a) The contractor selected by the Winnfield Police Department must be able to demonstrate 5 years of continuous operations of similar digital photo enforcement programs in municipalities in the United States;
- b) Must have 3 years of audited financials that show sufficient financial resources to provide the contractual equipment and services;
- c) Must have achieved AICPA SOCI and SOC2 audit compliance.

(2) The actions which can be used to enforce the payment of this civil penalty and related fees may consist of but not be limited to reporting the debt to collection agencies/credit reporting agencies, initiating actions through the Winnfield City Court, and/or submitting required documentation to the Louisiana Department of Motor Vehicles that would lead to Vehicle registration holds or processes leading to the enforcement of payment of the civil penalty arising from violations governed by this ordinance. Any STATE, LOCAL or JUDICIAL action that renders any of the payment enforcement of this paragraph void or otherwise unenforceable shall apply only to those payment enforcement measures included in the action. Other delinquent collection remedies noted in this paragraph will retain full authority of enforcement.

(3) In order to impose a civil penalty under this article, the Winnfield Police Department shall mail, or direct a contractor to mail, via First Class USP mail, a Notice of Violation that was issued by a Law Enforcement Officer to the owner of the motor vehicle identified in the Notice of Violation not later than 30 calendar days, inclusive or legal holidays and weekends, after the date of the violation is alleged to have occurred.

(4) A Notice of Violation issued under this article shall contain the following:

- a) A description of the violation alleged;
- b) The date, time, and location of the violation;
- c) A copy of a recorded image of the vehicle involved in the violation;
- d) The amount of the civil penalty to be imposed for the violation;
- e) The date by which the civil penalty must be paid;
- f) A statement the person named in the notice of violation may pay the civil penalty in lieu of appearing at an administrative adjudication hearing
- g) Information informing the person named in the notice of violation:

- 1) Of the right to contest the imposition of the civil penalty in by transferring the alleged violation to the Winnfield City Prosecuting Attorney to include on the next Winnfield City Court docket as a traffic violation, subject to the rights afforded by the US Constitution, Louisiana Constitution, and will be prosecuted with the same possible dispositions as any other citation/summons. Failure to Appear after requesting this avenue will result in Bench Warrant for the criminal charge of Failure to Appear. All proceedings on the alleged violation will be at the discretion of the City Prosecutor.

2) Upon a request to contest the imposition of a civil penalty, a summons to appear for arraignment in the Winnfield City Court will be mailed or delivered to the person named in the notice of violation.

3) Failure to pay the civil penalty or to contest liability is a waiver of the right to appeal.

4) A statement that a recorded image is evidence in a court proceeding.

5) A statement indicating failure to pay the civil penalty within the time allowed shall result in the imposition of an additional late penalty of \$50.00 for each violation; and,

6) Any other information deemed necessary by the Department.

h) A notice of violation under this article is presumed to have been received on the 10th calendar day inclusive of weekends and legal holidays after the date the notice of violation is mailed.

i) Once a portion of any roadway has been equipped with any Photo Enforcement System, the Winnfield Police Department shall begin issuing warning notices of the alleged violations as part of an education/public notification effort for 30 days. After this warning period, the Winnfield Police Department shall begin issuing the civil citations. No additional warning periods shall be issued by the Winnfield Police Department.

Section 13-64 Transfer to City Court as an Adjudication Hearing

(1) A person who receives a notice of violation may contest the imposition of a civil penalty by a request in writing for the alleged violation to be transferred to City Court as a traffic charge to be dealt with under the Code of Criminal Procedures, within 30 calendar days inclusive of weekends and legal holidays after receipt of the notice of violation. Upon receipt of a timely request, the Winnfield Police Department will forward the traffic charge to the City Prosecutor's office to be added to the next

available arraignment docket. The Winnfield Police Department shall then notify the person of the date and time of the arraignment date by mailing or personal delivery of a summons to appear.

(2) Failure to pay a civil penalty or to contest a liability in a timely manner is a waiver of the right to appeal.

(3) The civil penalty cannot be assessed after the alleged violation has been forwarded to the City Prosecutor.

(4) The recorded image of the violation may be used as evidence in any court proceedings concerning the alleged violation. Testimony from a sworn law enforcement officer that alleges a violation based on an inspection of the pertinent recorded image is admissible in court.

(5) A person who pleads or is found guilty of the alleged violation will be sentenced by the court as the law permits. Once the court accepts the guilty verdict or plea, this information will be sent to the Louisiana Department of Motor Vehicles for inclusion on their personal driving record as provided by state law. Court fees will also be assessed but can be waived by the City Judge if he/she deems appropriate.

(6) It shall be an affirmative defense to the imposition of civil liability under this article to be proven by a preponderance of the evidence, that:

a) A traffic control sign stating the posted limit or an ordinance establishing a speed limit was not in proper position and sufficiently legible to an ordinarily observant person.

b) The operator of the motor vehicle was acting in compliance of a lawful order or direction of a law enforcement or public safety officer.

c) The operator of the motor vehicle violated the instructions of the traffic control sign so as to yield right-of-way to an immediately approaching authorized emergency vehicle.

d) The motor vehicle operated as an authorized emergency vehicle under La Revised Statute 32:24 and the operator were acting in compliance of LRS 32:24.

e) the motor vehicle being operated by a person other than the owner of the vehicle was without the effective consent of the owner.

f) The license plate depicted in the recorded image of the violation was a stolen plate and being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued;

g) The presence of ice, snow, unusual amounts of rain or other unusually hazardous road conditions existed that would make compliance with this article more dangerous under the circumstances than noncompliance;

h) Notwithstanding anything in this article to the contrary, a person who fails to pay the civil penalty or to contest liability in timely manner may be entitled to judicial review, and is subject to collection action, unless:

1) The person files and affidavit with the Police Chief stating the date on which he/she received notice of violation mailed to the person;

2) The person files a request to be adjudicated in court within 30 days of from the date of receipt of the notice of violation, as stated in the affidavit.

i) The decision of the City Judge will be the final disposition of a disputed violation by the City of Winnfield. Person or persons aggrieved by the decision of the City Judge may, within 30 days, file an appear with the 8th Judicial District Court.

Section 13-65 Effect of liability; exclusiveness civil remedy

(1) The imposition of a civil penalty under this article shall not be considered a criminal charge.

(2) A civil penalty may not be imposed under this article is the operator of a motor vehicle was arrested or was issued a citation and notice to appear by a law or public safety enforcement officer.

(3) The Winnfield City Attorney is authorized to file suit to enforce collection of unpaid fines and/or related fees and penalties imposed hereunder by lawful means to secure such payments.

Section 13-66 Deposit of Funds; Dedication of Funds

(1) The penalties, fines and fees collected from the imposition of civil liability under this article shall be deposited in the General Fund of the City of Winnfield. Funds collected under this article will be budgeted exclusively for use by the Winnfield Police Department for personnel, equipment and training as determined by the Chief of Police.

(2) Be it further ordained by the Winnfield City Council that if any provision of this ordinance is held to be invalid or otherwise unenforceable by the final judgement of a court of competent jurisdiction such invalidity shall not effect the validity of any of the remaining provisions of this ordinance and may be given effect without the invalid provision; and to this end the provisions of this ordinance are hereby declared to be severable.

Section 13-67 Be it further ordained by the Winnfield City Council that ordinances or parts of ordinances by the City of Winnfield in conflict with this ordinance and all Sections in the Winnfield Municipal code in conflict with this ordinance are hereby repealed.

On the agenda under Old Business Action Items were the following:

None

On the agenda under Old Business Non-Action Items were the following

None

On the agenda under New Business - Action Items were the following:

Item #1 – Award Engineer and Pay for Administrator for the Proposed 2021 LCDBG Grant Project – Mayor

Upon a motion by, Councilperson Junkin, seconded by Councilperson Miller, the following resolution was offered for adoption:

A RESOLUTION ADDRESSING INJECTION OF OTHER FUNDS
ASPECTS OF THE PROPOSED FY 2021 LOUISIANA
COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT

WHEREAS, the City of Winnfield is desirous of submitting an application to the State of Louisiana, Division of Administration for funding under the FY 2021 LCDBG program for sewer system rehabilitation; and

WHEREAS, it is necessary to inject other funds into the project construction costs for the appropriate activity to receive additional points, or fractions thereof, relative to the cost effectiveness of the project or if this is not the case, the project may cost more than can be requested under the LCDBG Program; therefore, the City of Winnfield proposes to use other funds in conjunction with the LCDBG funds, or if this is not the case, a combination of both scenarios, should funding become available;

NOW, THEREFORE BE IT RESOLVED that the City of Winnfield has agreed to inject other funds in the amount of \$0.00 towards the construction costs of the appropriate activity. A letter stating the specific source, amount, and location of local cash, a line of credit letter from a financial institution such as a bank stating the amount available as a loan, specific evidence of funds to be received from a tax or bond election that has already passed, or a letter from another funding agency stating that the funds have been awarded are currently available for expenditure will be attached and made a part of this resolution. All fees are contingent upon funding of the project by the State of Louisiana, Division of Administration under the FY 2021 LCDBG program.

The above resolution having been read and a vote taken as adopted by unanimous vote on this 1st day of December 2020.

George Moss

Katina Smith

George Moss, Mayor

Katina Smith, Clerk

Item #2 – Resolution to award funds to Winn Parish Council of Aging – Mayor

Upon motion by Councilperson Miller seconded by Councilperson Phillips the following resolution was offered for adoption

RESOLUTION TO PROVIDE FUNDING TO THE
WINN PARISH COUNCIL ON THE AGING
IN THE AMOUNT OF \$6,000.00

WHEREAS, the Winn Parish Council on the Aging provides an extremely beneficial service to the senior citizens of the City of Winnfield and Winn Parish, and now finds itself in necessitous circumstances.

AND WHEREAS the City of Winnfield is desirous of aiding the Winn Parish Council on the Aging to fulfill its goals in providing aid to the senior citizens of Winnfield and Winn Parish.

NOW, THE

REFORE, BE IT RESOLVED by the Mayor and City Council of the City of Winnfield that the City of Winnfield will provide funding to the Winn Parish Council on the Aging in the amount of Six Thousand (\$6,000.00) Dollars.

The above resolution having been read and a vote taken as reflected below:

	AYE	NAYE	ABSTAIN	ABSENT
COUNCILPERSON HAMMS	X			
COUNCILPERSON HOLDEN				X
COUNCILPERSON JUNKIN	X			
COUNCILPERSON MILLER	X			
COUNCILPERSON PHILLIPS	X			

WHEREUPON the resolution was adopted on this the 1st day of December 2020.

*George
Moss
Katina
Smith*

GEORGE MOSS, MAYOR

KATINA SMITH, CITY CLERK

On the agenda under New Business – Non-Action Items were the following:

1. Discuss amending Pitbull Ordinance- Miller
Animal Control officer Camelia Shelton discussed her concerns with Pitbull’s not being allowed in the City limits, because it is of her strong opinion that pit bulls are not vicious dog and is requesting that the ordinance be amended. Councilperson Junkin discussed details of the current Ordinance and come to agreement that the insurance requirement can be removed, but the

following shall remain:

The dogs must be kept in a fence (top and bottom)

Must be registered

Must be microchipped

If dog is being walked it must be on a leash and owner have identification on them of the dog.

ADJOURNMENT

On motion by Councilperson Junkin duly seconded by Councilperson Phillips after no public comment, the Council unanimously voted to adjourn the meeting December 1, 2020 at 3:00 p.m.

George Moss

Katina Smith

George Moss, Mayor

Katina Smith, City Clerk