



AGENDA ITEM FORM

TYPE OF AGENDA ITEM:

- CONSENT AGENDA
- PRESENTATION
- ACTION ITEM
- TOWN MANAGER & STAFF COMMENTS
- PUBLIC HEARING
 - Duly Advertised

PURPOSE OF ITEM:

- INFORMATION ONLY
- DISCUSSION ONLY
- DISCUSSION AND/OR DECISION
 - Introduction Resolution
 - Ordinance Grant/MOU
 - By Motion Bylaws
 - Certificate

PRESENTER: Willie Toney

PRESENTER TITLE: Vice Mayor

AGENDA ITEM:

Mobile Food Vendor Ordinance

BACKGROUND / SUMMARY:

The proposed mobile food vendor ordinance would permit entry-level restaurant entrepreneurs the opportunity to establish themselves within the Town of Dumfries, and amend the municipal code for peddlers and solicitors, by adding Mobile Food Vendors as an accessory use. The proposed ordinance would establish standards and regulations for mobile food vendors to operate within the town.

Currently, mobile food vendor operations are not written into Town Ordinance. The purpose of this ordinance is as follows:

- Establish a definition for mobile food vendor units (trailer, cart, truck, or tent)
- Permit mobile food vendors units as an accessory use on an established commercial retail business private parcel, while restricting such uses on public streets/right-of-ways, and easements (B-1, B-2, FB/01, and H-1)
- Establishes a process for the mobile food vendor permit application
- Sets an annual permit fee at a determined dollar amount.
- Establish that repeated violations will result in revocation of mobile food vendor permit.
- Establish that all mobile food vendors have liability insurance as an operational requirement.

The intent of this ordinance is to compliment traditional brick and mortar restaurants rather than compete with them, and establish standards and regulations for mobile food vendors to operate within the town of Dumfries.

ATTACHMENTS: Agenda Item Form Submitted 7-24-12 Not Used and Excerpts of Minutes from 3/20, 5/8, 5/22, 6/19, 8/21, and draft 9/18 Council Meetings

REQUESTED ACTION: ACTION REQUESTED

Move forward with recommendations and place on the next Council Meeting Agenda for action

FOR MORE INFORMATION, CONTACT:

Phone#: 703 441-6465

Name: Willie J. Toney

E-mail: honwtoney@dumfriesva.gov

FOR USE DURING MEETING

<i>FOR USE DURING MEETING</i>				VOTE:	<input type="checkbox"/> PASSED		<input type="checkbox"/> NOT PASSED	
Y	N	Y	N		Y	N		
<input type="checkbox"/>	<input type="checkbox"/>	Brewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Forester	
<input type="checkbox"/>	<input type="checkbox"/>	Reynolds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Washington	
<input type="checkbox"/>	<input type="checkbox"/>	Wood						



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PRESENTER: G.M. Foreman

PRESENTER TITLE: Mayor

AGENDA ITEM: Fee Schedule Text Amendment - Mobile Food-Vendors / Roving Eateries

BACKGROUND / SUMMARY:

Mobile Food-Vendors / Roving Eateries are not listed on the current Fee Schedule. The Fee Schedule should be amended to reflect Mobile Food-Vendors / Roving Eateries current operations. Mobile Food-Vendors / Roving Eateries (to include BBQ's) should be required to provide a copy of all PWC paperwork to Town Hall as well as pay a Business License fee of \$500.00. The Mobile Food-Vendors / Roving Eateries would not be required to pay BPOL, nor report net / gross receipts. The annual Business License fee of \$500.00 would allow for the Mobile Food-Vendors / Roving Eateries (to include BBQ's) to participate in all Town sponsored events.

Prince William County Requirements:

1. PWC Police Department issues a Peddler's Permit (\$20.00).
2. \$5,000.00 Bond
3. Completion of a Criminal Check
4. Health Permit
5. Business License (a paid fee) of \$500.00 (Annually).
 - a. Zoning Permit
 - b. Ice Cream Trucks (Seasonal / Zoned)
 - c. Crab Trucks (Seasonal / Zoned)
 - d. Chuck Wagons – Construction Site (Peddler's Permit / Zoned)
 - e. **BBQ Vendors** are not legally permitted as roving eateries in PWC. They do however receive a Peddler's Permit only for a specific event, i.e. Charter Day, Multi-Cultural Festival

ATTACHMENTS:

REQUESTED ACTION:

NO ACTION REQUESTED

Council vote on sending text amendment to the Planning Commission for review and approval.

FOR MORE INFORMATION, CONTACT:

Phone#:

Name:

E-mail:

FOR USE DURING MEETING

VOTE:

PASSED

NOT PASSED

Y	N		Y	N		Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Brewer	<input type="checkbox"/>	<input type="checkbox"/>	Foreman	<input type="checkbox"/>	<input type="checkbox"/>	Forrester
<input type="checkbox"/>	<input type="checkbox"/>	Praino	<input type="checkbox"/>	<input type="checkbox"/>	Reynolds	<input type="checkbox"/>	<input type="checkbox"/>	Toney
<input type="checkbox"/>	<input type="checkbox"/>	Washington						

IN RE: DISCUSSION ITEMS

A. CONSIDER AMENDING THE TOWN ZONING ORDINANCE AS IT RELATES TO TEMPORARY USES OR ACTIVITIES

Ms. Barr explained that when she started to collect signatures to get on the ballot she started in Williamstown. One thing she discovered was that Williamstown is a hotbed of activities, meaning there were many micro-businesses. These have spawned out of not just hobbies, but also the need to make extra money. After reviewing the Town's business license process these types of businesses have been forced to run underground. These businesses do not have separate corporate structures, do not file separate tax returns, or in some cases do not make over \$3,000 a year. The Town needs to find a way to bring these businesses into the fold by changing the policies, ordinances, and business license application procedures to acknowledge that there is a need out there for these types of businesses due to the economy. If the Town is going to be pro small business, pro citizens, the Town has to adapt and address this. She spoke with the members of the Dumfries Business Association (DBA) about these types of businesses but they were interested more in the types of businesses that have a storefront and file a separate tax return. She asked that the Town look at the Prince William County (PWC) policies for micro businesses, home employment businesses, and home office businesses. She understood that an individual would fill out an application. There is no fee, a description of the business is provided, and proof that they live in the home. In some cases, an occupancy permit is needed. It essentially places the business on record of operating in the Town. She also wanted to have all the businesses in the Town recognized under the economic development division of the website. She did not want to give addresses. Just the names to recognize the businesses in the Town and legitimize them. The Town is quite diverse. She asked staff to consider bringing back an adaptation to the ordinances that would allow embracing these micro businesses.

Mr. Taber noted that staff discussed trying to place everything into one process and it simply does not work when talking about temporary use permits. He noted that David Moss, Zoning Administrator/Town Planner provided a template of the wide breath of activities that occur in the Town. Some of these activities are very intense in nature and should go through the full scope of scrutiny that is currently being used.

Mr. Moss explained that PWC has two types of home businesses. One is a home occupation that is simply a desktop computer ran out of your home. The Town has something similar and anyone can come and apply. There are certain restrictions. The Town makes sure they are a resident or if a renter that the homeowner knows they are running a business out of the home. The zoning ordinance restricts the use of the property to no more than 25 percent of the square feet of the residence. The business is not allowed to have a vehicle that is more than 6,000 pounds parked on the property, which is very specific to the Town. The other is home businesses, which the Town does not currently allow. This allows up to five customers to come to the home, by appointment only, during regular business hours, which takes a bit more scrutiny. Some amendments can be made to allow for a larger type of business that would include customers coming to the site. Those are businesses that happen at your home or in your home. There is another set of businesses that operate out in the community which blurs between the line of zoning and general code enforcement, especially in regard to mobile vendors or mobile food trucks. The current zoning ordinance in the Town does not allow for mobile food trucks or vendors. PWC has very specific rules about food trucks. They cannot be parked for more than 30 minutes in any one location and this is enforced by the Police Department. The zoning ordinance is somewhat archaic and is very limited in how it views temporary types of events. There are two types of activities, a circus or carnival that is a huge event or some kind of Church picnic or special temporary sale. Carnivals and circuses can only occur

Excerpt from the 3-20-12 Town Council Meeting Minutes

four times a year on a property and must be separated by at least 30 days. The other types of uses can only occur six times a year on a property and must be separated by at least 30 days. The zoning ordinance is not very flexible. He suggested having a greater set of tiered activities to separate them out and have more flexibility in the zoning ordinance that would allow for mobile food vendors, etc. The following outline of activities and what components may be part of the activity was provided for discussion purposes.

more preparation and sign-offs required →

← less frequent but greater intensity

	Accessory activity to existing business	Table & chairs (setup for small temporary sale)	Tent under 900 square feet or 50 occupants	Additional restrooms required	Outdoor movie screen	Food preparation onsite	Inflatable amusement device (Moon bounce, etc.)	Modified shipping container	Stage	Sound equipment	Generator	Amusement device (Carnival rides, etc.)	Tent over 900 square feet or 50 occupants
Yard sale	✓	✓											
Special sale for existing business	✓		✓			✓							
Church picnic	✓		✓	✓									
Birthday party	✓						✓						
Roadside food sales		✓	✓										
Business picnic			✓	✓									
Block party			✓	✓			✓						
Flea market		✓	✓			✓							
Fireworks sales		✓	✓					✓					
Friday night movie on the lawn					✓	✓				✓	✓		
Car show		✓	✓	✓					✓	✓	✓		
Music festival or outdoor concert		✓	✓	✓	✓	✓			✓	✓	✓		✓
Carnival				✓		✓					✓	✓	✓
Circus				✓		✓			✓		✓		✓

check marks indicate components often found in certain temporary activities

Excerpt from the 3-20-12 Town Council Meeting Minutes

Ms. Barr explained that her issue was the 30-day separation. She noted that there are really only four or five months of nice weather which would only allow the use of two months. She thought that the frequency needed to be looked at since there are many outdoor functions that occur in the Town.

Mr. Toney noted that the zoning ordinance was somewhat archaic and has not been revised for 30 years. He noted that he was on the Planning Commission for six years and the Town is what is called an inclusion kind of town.

Mr. Moss explained that if the zoning ordinance does not permit it then it is not allowed.

Mr. Toney explained that if it is not stated then it is not allowed. If it is an activity that is not listed then it is not allowed. He felt that the process needed to be looked at and brought into the 20th century.

Mr. Foreman pointed out that the attachment (outline of activities) should have been noted that staff and not Ms. Barr prepared it on the agenda item form. He cautioned that an ordinance was amended not too long ago. He noted that it was better than what it was before; however, there are people who are now getting upset with the interpretation. He stated then that it was not written the way it should have been; however, he voted yes on it understanding that it would be addressed again. He is still waiting for it to be addressed. Everything he just heard is that there is another ordinance that needs to be amended. He felt if changes were going to be made, which need to be done, then the other ordinance needed to be worked on at the same time. If a committee needs to be formed then form one. He wanted to make sure that these ordinances were done the right way.

Mr. Taber noted that one of the mistakes made with the last process was that a lot of the citizen input was not done until the end and timing is everything. He was willing to say that 80 to 85 percent of the previous effort was good work and that there is 15 to 20 percent that could use some tweaking. He had intended in going back and engaging the citizens and business community to deal with those issues. He agreed that this could all be brought in together. He noted that this is not going to be done in 15, 30, or 45 days since the Planning Commission has to be involved.

Ms. Barr pointed out that it was said that it would be revisited and she did not think that it would hurt for it to take 6 weeks; however, she felt the other issue needed to be fast tracked because of the weather and summer coming. She disagreed with handling both issues at the same time and asked Council to reconsider the impact this will have if the permitting process is not separated from the ordinance.

Ms. West pointed out that there is the difference between events and businesses.

Mr. Toney reminded staff that he made comments that there was a prepared determination already given to Council with the last ordinance. He explained that there was public hearing, citizens expressed their concerns, and Council had to vote on something that was already prepared. He thought the process needed to be looked at. When a public hearing is had, staff should not have an already prepared conclusion in front of Council.

Mr. Taber agreed that the input was gotten from the citizens at the end of the process.

Mr. Toney suggested having the public hearing and then having it as an action item at the next meeting opposed to the same night.

Excerpt from the 3-20-12 Town Council Meeting Minutes

Ms. Sanders reminded Council that even if there is an item on the agenda for action Council has the ability to defer the matter to the next meeting.

Mr. Toney noted there needs to be four votes for that.

Ms. Sanders agreed.

Mr. Moss pointed out that was the reason only a matrix was provided to start the discussion. He could sit in his office over a couple of days and write an ordinance. He noted Council could request the Planning Commission take the matter up at their next meeting and the Town announce it to the citizens.

Mr. Toney noted that should occur with the Council too when it holds its meeting. He has noticed that there are some recommendations that have come forward to Council that were not reflected in the Planning Commission's recommendation. He did not want to have a public hearing with matters of concern and make a decision the same night.

Mr. Foreman felt the process failed last time. He had recommendations that he sat down and went over with staff. At the end of the meeting, the Planning Commission and the public discussed it and moved it on and the vote was made without some of those recommendations of which some were valid and some were not. He had suggested changing the fee for signs to \$75.00 and banners to \$35.00. He was told that the matrix was being worked on. He had asked about businesses being able to display their wares. He has not gotten an interpretation to date. Both suggestions made are the same as what is being done tonight. He asked staff to go do something and make a recommendation and then Council could do something. If it takes making a motion, he will make one at the next Council meeting for banners, signs, and wares.

Ms. Barr noted that the things she was asking staff to look at would not have been addressed with the last rewrite. It is a living document.

Ms. Barr moved, seconded by Ms. Jurgensen, to direct staff to move forward to the Planning Commission to initiate zoning text amendments dealing with home based businesses and home occupations.

Mr. Taber mentioned that at the next meeting Council will get the final recommendation on fees that will include the changes for the signs and banners.

The motion carried to move forward to the Planning Commission to initiate zoning text amendments dealing with home based businesses and home occupations by the following roll call vote: Ms. Barr, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Jurgensen, yes; Mr. Toney, yes; Ms. Washington, absent; Ms. West, yes.

Ms. Barr moved, seconded by Ms. Jurgensen, to direct staff to move forward to the Planning Commission to initiate a zoning text amendment for temporary uses and activities permits. The motion carried by the following roll call vote: Ms. Barr, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Jurgensen, yes; Mr. Toney, yes; Ms. Washington, absent; Ms. West, yes.

Mr. Foreman moved, seconded by Ms. Barr, to direct staff to move forward to the Planning Commission to initiate a zoning text amendment with the definition of signs and the sections of the sign ordinance dealing with the display of wares. The motion carried by the following roll call vote: Ms. Barr, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Jurgensen, yes; Mr. Toney, yes; Ms. Washington, absent; Ms. West, yes.

Excerpt from the 3-20-12 Town Council Meeting Minutes

Mr. Toney wanted to make sure that things were set such that a vote is not taken the same night.

Mr. Foreman moved, seconded by Mr. Toney, to direct staff to move forward to the Planning Commission to initiate zoning text amendments for revisions to the intent and use sections of the B-1, B-2, and FB/O-1 Zoning Districts. The motion carried by the following roll call vote: Ms. Barr, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Jurgensen, yes; Mr. Toney, yes; Ms. Washington, absent; Ms. West, yes.

IN RE: CITIZEN COMMENT PERIOD

Sue Cornell congratulated the Mayor and commended the other Council Members that ran for Council for a very truthful, honest, clean campaign. She congratulated and welcomed the new Council Members Helen Reynolds and Charles Brewer who will be seated next month.

Derrick Wood wanted to remind Council about the temporary food service establishments since it is the beginning of the season and he has several locations that he has gotten permission to set up at. He noted that the Board of Health regulates them under section 32. He mentioned that the Multicultural Festival was a grand time.

Mayor Foreman noted that when the Economic Development Director gave her report he was going to bring it up to move it along.

A. DIRECTOR OF COMMUNITY & ECONOMIC DEVELOPMENT – DEBI SANDLIN

Ms. Sandlin reported the following items.

- Two Strategic Plan focus groups were held with 10 community members and 22 businesses participating
- Sixty-nine surveys have been collected
- A 10-minute presentation was done on May 16 at Quantico during a Welcome Aboard meeting and surveys were handed out
- Attended a community expo at Quantico and handed out information about the Town
- Debbie Jones, Vice President of the Prince William Chamber of Commerce, has agreed to partner with and invite Town businesses over the next few months to participate in free networking events normally open only to Chamber members, they will host an after-hours business event to learn about the day-to-day challenges Town businesses are facing, and businesses will be able to attend Chamber events that have fees at the same rate Chamber members are offered instead of the non-chamber member rate

Mr. Toney recommended creating Dee Thomas a resolution commending her for her service on the Architectural Review Board.

Ms. Sandlin agreed.

Ms. Barr commended Ms. Sandlin on holding the focus groups.

Mr. Toney asked if an individual who serves on a Board or Commission has been found guilty of malfeasance could or would be removed from the Board or Commission.

Ms. Sanders needed more details to be able to answer that question.

Mr. Toney stated he would discuss it with her later.

Excerpt from the 5-8-12 Town Council Meeting Minutes

Mr. Foreman noted that the Town does not have a business license for roaming eateries or a category; however, there are a couple that it could vaguely fall under. He wanted to know if this could be looked at and rectified.

Ms. Sandlin noted that has been looked at and currently code does not allow for this type of business, roadside vendor. If it were a private event, the vendor would fall under the umbrella of the permitted event. The Planning Commission (PC) is looking at the matter now.

Mr. Foreman mentioned that would be a couple months from now. He understood that there are rules that apply to events; however, these vendors are trying to comply. He asked if what was being said was that a vendor could do a barbeque every weekend until this was straightened out.

Ms. Sandlin explained that a food vendor could take part in an event as part of the establishment or organization. Setting up on their own on the weekend is not allowed.

Ms. Forrester felt there had to be a resolution to the problem temporarily. That something could be put in place to allow food vendors to operate until this was explored. The Town is losing money because they are going to another locality and setting up.

Ms. Barr mentioned the request was forwarded to the PC on a separate motion with the thought this would move the process along faster.

Ms. Sandlin advised it would be placed on the next PC agenda to have the dialogue started.

Mr. Toney asked if Council could place a temporary reprieve to allow these businesses to function in lieu of going through the bureaucracy.

Ms. Sandlin was not aware of any enabling legislation that would allow creating a new zoning classification or business use without going through the bureaucratic and democratic process. She explained there are many things to consider such as safety, the public, and zoning classification issues with these types of businesses.

Mr. Foreman asked that a report be given on it at the next Council meeting to allow the businesses to know that it is being worked on.

Ms. Washington asked that Ms. Sandlin get with Ms. Sanders to expedite the areas of concern.

A. PLANNING COMMISSION (PC)

Mr. Chris Padberg, Chair, gave the following report.

- No official report is available since the last held meeting was a work session.
- Over the past two meetings, discussions have been held regarding whether to allow mobile food vendors in the Town. The consensus of the PC was to not allow mobile food vendors and felt it was not in the best interest of the Town government or the businesses established, brick and mortar facilities, in the Town. It was noted that the review process for a by-right use or rezoning takes into consideration things such as parking, ingress, egress, and is possibly reviewed through an outside agency that a mobile food vendor would not have to go through. Most of the surrounding localities do not allow mobile food vendors. There are also health and safety issues to consider. The Town uses PWC’s Health Department. As it stands, PWC does not have a program that allows mobile food vendors. The code allows for the temporary use of mobile food vendors at festivals, farmers markets, or events put on by an organization. The PC did not think that allowing mobile food vendors on a permanent basis is the direction the Town wants to go.

IN RE: DISCUSSION ITEM(S)
A. UPDATE ON CONSIDERING AN AMENDMENT TO SECTION 70-22
TEMPORARY USES FOR MOBILE FOOD VENDORS – MORGAN
BRIM

Mr. Brim reminded Council that during the May 8 meeting staff was directed to have the PC consider the allowance of mobile food vendors as an amendment to Section 70-22 “Temporary Uses”. Currently code does not allow them; however, code does allow for use of mobile food vendors in a larger event setting. The PC was unanimous to not allow the use of mobile food vendors. The following are concerns the PC has:

1. Traffic conflicts with pedestrians and vehicles,
2. Limited parking stock,
3. Temporary businesses undercut established Town businesses,
4. Difficulty in ensuring meals taxes are paid and ensuring health standards that are applicable to existing businesses, and

5. PWC, Stafford County, City of Manassas, Manassas Park, and City of Falls Church do not allow mobile food vendors for the reasons listed above.

Ms. Jurgensen pointed out there is a smoker and a stack of wood in a parking lot just before Town Hall that has been there for quite some time. She was discouraged because there are other localities that are permitting roadside vendors.

Mr. Brim noted that staff is aware of the smoker and is in the process of issuing a violation.

Ms. Jurgensen asked if the violation is being issued to the owner of the smoker or the owner of the parking lot.

Mr. Brim noted the violation would be issued to the property owner.

Mr. Foreman advised that PWC's Police Department issues a peddler's permit. In order to obtain the permit in PWC the vendor has to have the following items:

1. \$5,000 Bond
2. Criminal Check
3. Health Permit
4. Business License
5. Zoning Permit

The types of vendors are ice cream trucks, which are seasonal and zoned, crab trucks, which are seasonal and zoned, chuck wagons, which are for construction sites and are issued a peddler's permit and zoned. BBQ vendors are not legally permitted; however, a peddler's permit will be issued for a specific event such as a farmers market. He recommended that staff come back with some kind of structure so that the vendors provide the Town with the same type of things that PWC requires. He wanted the vendors to hold a business license even if it is a onetime fee because most of the business is cash only. If the PC does not want mobile food vendors to operate, we need to say why. There needs to be criteria for a mobile food vendor for when it can operate, where it can operate, and under what specific events.

Ms. Barr asked when the Town did something regarding the ice cream trucks.

Mr. Brim did not know.

Ms. Barr asked when it was allowed in the ordinance.

Mr. Brim did not see where ice cream trucks were permitted in the ordinance.

It was clarified that it is PWC who allows ice cream trucks.

Excerpt from the 5-22-12 Town Council Meeting Minutes

Ms. Barr noted the Town needed to find a way to embrace small businesses as well as big businesses without treading on the bricks and mortar businesses. She noted that some of the micro-businesses are offering something that the citizens want and are not necessarily in competition with other businesses. She felt there had to be a way that this could be done.

Mr. Brim pointed out that the ordinance would have to apply to all mobile food vendors.

Ms. Washington after reviewing the packet thought that Cydny Neville, Director of Community Services, was going to be looking into it and was thinking that it was going to be allowed at events such as a farmers market. She felt the vendors needed to be in a specific place. She thanked the PC for taking the time to look at all the concerns and issues that can arise from these type of uses in the Town.

Ms. Jurgensen pointed out that peddler's are setting up on the weekends in the Dumfries Shopping Center already when there is no enforcement.

Mr. Padberg, PC Chair, did not feel that legalizing a problem solves it. The PC is not saying that there is no room for an ice cream truck. He noted that the matter was presented to the PC more as a mobile food vendor. From a planning and zoning perspective, this needs to be taken slow. Historically the Town has allowed things that the County has not and this would be yet another one. The attitude in the County on issues like this is you cannot do it here but go down to Dumfries because they are wide open for this. The PC is looking at this as not being offered by any surrounding localities, so maybe a good look should be taken before allowing it. He felt the matter should be vetted through the Dumfries Business Association to see what they say.

Mr. Foreman reiterated that there has to be a standard for which to operate. Take a look at PWC and take it from there.

Mr. Brim understood the direction from Council is to pull in those ideas and look at the standards being placed through PWC to be taken back to the PC.

Mr. Foreman noted that the idea is to look at the standards with the PC and bring back those standards to Council to safeguard other businesses, citizens, and the Town.

Ms. Washington noted that the big thing was going to be with the health department. She suggested looking at some of the other surrounding areas as well.

A. TOWN ATTORNEY – CHRISTINE SANDERS

Ms. Sanders reported the following items.

- She will be out of the office for the first two weeks of July.
- She attended a meeting with local food vendors on a proposed temporary use permit.
- She consulted with the Public Works Department on the appropriate action to be taken to resolve the issue safely on a hoarding situation.
- She collaborated with the Community Services Director on the initiation of the Dumfries Farmers Market.

Mr. Toney asked if there were any juvenile matters addressed in court.

Ms. Sanders noted there were an increased number of cases this month in the juvenile and domestic relations court, which were the result of adults contributing to the delinquency of a minor.

Excerpt from the adopted 8-21-2012 Town Council Meeting Minutes

Mayor Foreman noted that under Section 70-22 under k it reads, no roadside sale of food is permitted, except as stated in Section 70-22(3) of this code. Section 70-22(3) reads, vendors selling food products shall be permitted only in conjunction with a temporary activity listed in Section 70-22(2) of this Chapter. Section 70-22(2) reads, carnivals, circuses, craft fairs, concerts, flea markets, car shows, meetings, religious activities not held on church property, business catered events, and similar outdoor activities, for a period not to exceed 14 days provided... If he had a barbeque business, he could participate in Town sponsored events; however, he could not set up in a parking lot. This only takes care of one portion of the matter. He is expecting to see a business license section come up later. It has not been stated business license and health permit. He mentioned that PWC charges a flat fee of \$1,500. There was discussion about a \$500 flat fee and asked if the fee schedule was going to address that. He noted that the ordinance states a business license is obtained, all applicable standards of chapter 18 of this code are met, and within seven days of the conclusion of the event, all gross receipts are provided to the Town for tax verification purposes. He indicated that was not what was being done. Vendors are paying for a space at the event and that is all. This does not apply to roadside vendors.

Mr. Brim explained this was set up for just events. There has been some discussion about amending the fee schedule and charging a flat fee to do away with providing the gross receipts.

Mayor Foreman asked if the line referring to gross receipts needed to be changed to refer to the fee schedule. He is specifically talking about food vendors. He asked if the sentence applied to more than just food vendors.

Ms. Sanders recommended going with a flat \$500 fee through the fee schedule.

It was noted that changes would be made in the ordinance to refer to the fee schedule and the fee schedule would be addressed separately.

Ms. Forrester was dissatisfied with the resolution to this particular matter. Roadside vendors have not been addressed except to say that they are still not welcome. The original intent was to allow food vendors. She questioned why she would pay \$1,500 to PWC and an additional \$500 to come to Dumfries. She indicated it was the same result. She mentioned that no other business has to show their receipts. Businesses state what they have sold for the year. This discussion has been had numerous times about how the Town knows the actual amount of income. If she was incorrect, she was incorrect, but this has been discussed ad nauseam. This is not what council asked to be resolved.

Excerpt from the adopted 8-21-2012 Town Council Meeting Minutes

Mr. Brim noted this was the recommendation from the PC and they were not in favor of food vendors in a roadside setting.

Ms. Washington asked how this would apply to the Fall Festival.

Mr. Brim explained this clarifies what is already taking place. The practice of the Town has to not allow food vendors in a roadside setting, but to allow them at events. A food vendor could sign up for the Fall Festival through the Community Services Director and would be required to have the appropriate business license and health department approvals.

Ms. Washington asked what the fee was now.

Mr. Brim explained that the fee is not addressed at this time. At the last Council meeting staff was directed to look at the fee schedule for temporary signs and that would be the time to discuss and look at what the fee would be.

Mayor Foreman clarified that PWC does not authorize the roaming eateries. Barbeque vendors are not authorized and are illegal. The only type of food vendors authorized in PWC on a roving basis is ice cream trucks, shrimp in an authorized zone, and gut trucks that show up at construction sites. If a food vendor wants to participate in any event in PWC, they have to apply for an application. PWC requires six things be done and a \$1,500 fee is charged with no collection of receipts. He is all for the barbeque places operating in the Town and at the planned events. Presently there are no rules. There are traffic concerns. He explained that if the Council is going to move forward with allowing this type of food vending then there has to be defined terms of how it will operate.

Ms. Forrester understood the PC did not like the idea of food vendors, but she wanted the PC to do what Council asked them to do. She noted that very clear instructions were provided on what Council wanted to happen. The PC's role is to advise Council on what they think but ultimately it is to do what Council asks them to do and not just to work with staff and do whatever they want to do in the first place. She knows the PC has a good understanding of that. She wanted to see some version of what Council actually asked for before a decision is made on the matter.

Mayor Foreman asked if the proposed text amendments for Section 70-22 and 70-23 could be sent back to the PC. He explained Option 1 and Option 2 could be presented if food vendors were going to be allowed to operate in the Town on a regular basis. This will allow Council to look at both options and if the PC wants to attach a statement that addresses their

Excerpt from the adopted 8-21-2012 Town Council Meeting Minutes

concerns like traffic and permission from property owners it would allow Council to move forward. He noted that most of these barbeque vendors have a business license to operate a catering business out of their homes and are not for being a roadside food vendor.

Ms. Washington felt that Council was talking about two separate items. She was hearing that the discussion was around Town sponsored events and should be handled in a different way. You cannot charge an individual \$1,500 to set up at a festival the Town is trying to provide entertainment.

Mr. Taber noted that staff would work on the wording that would differentiate the two types of vending. He noted that staff would take the two options back to the PC with the understanding that they will provide opinions on both those options, the pros and cons.

Ms. Forrester wanted to make sure that the health permit is still being provided for the Town events as well.

Mr. Brewer wanted to know if the fee schedule was going to be modified at the same time the other changes would be made.

Mr. Brim indicated that the PC is working through the process for the sign ordinance and the idea is to have the fee schedule done at the same time. He noted that the two could be brought back at the same time.

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- Council requested that the PC provide a second option to allow food vendors to operate in a roadside setting. In reviewing the allowance of food vendors in a roadside setting, the PC was unable to come to a conclusion and felt that it was not appropriate to propose any language or use that was not appropriate for the Town. The PC reiterated its position of only allowing food vendors to operate in public sponsored events.
- A review of the temporary uses to clarify language for yard sales is being worked on. The PC is in favor of removing the permit requirement for individual residences provided the number of events is limited per year. This will prevent individuals from operating a business in the guise of a yard sale.

Mayor Foreman noted the reason for the second option to allow food vendors to operate in a roadside setting was requested because no option was provided. He understood the PC's recommendation that they did not think food vendors should operate. He noted that Council wanted to see both languages to make the decision. He asked if there was going to be a problem getting language.

Mr. Russell indicated the PC could work with staff to come up with some language. The PC went through the recommendation and thoroughly vetted what the PC thought was the appropriate action. He noted that a vote was taken, the recommendation was made, and Council can disagree with what the PC recommended. The Council can move forward with its own variation of that recommendation. What was not clear to the PC was if that goes back to the Council how much change is allowed before it has to become a new event. The Zoning Administrator was going to speak with the Town Attorney about the matter.

Mayor Foreman noted that what came back was language that allowed roadside vendors to participate in organized events. The Council asked for two languages; one that would be for organized events and one for the allowance of operating as a roving business from parking lots or from designated areas of the Town, seven days a week. He asked if Council had to craft the language and send it to the PC for review.

Ms. Sanders indicated that Council has the recommendation from the PC. Staff can work with Council on language for the other item. She believed what was being said was that there is no appropriate language. She asked Mr. Brim, Zoning Administrator, if language was crafted for roving food side vendors that Council already considered originally.

A. DIRECTOR OF COMMUNITY & ECONOMIC DEVELOPMENT

Morgan Brim, Planner/Zoning Administrator, went over the following items.

- ✓ To date there have been 81 Zoning Violations, a majority of those have been abated by working with the property owner.
- ✓ The Planning Commission (PC) is looking at numerous text amendments.
 - B-1, B-2, and FBO/1 Zoning Districts
 - Sign ordinance – temporary signs for religious institutions and non-profit organizations
 - Food vendors – an Option 2 will be provided that will allow food vendors with a recommendation for denial or approval
- ✓ Town Center Project – staff is working with applicant to get an update to the Conditional Use Permit.
- ✓ Applicant driven text amendments dealing with the Town Center Project are being worked on.
- ✓ A Conditional Use Permit has been received for the Mathews Center for Autism (Pillar Church).
- ✓ The Architectural Review Board is looking at the Design Guidelines.
- ✓ Work continues on a CDBG grant application to be discussed at the next Council meeting.

Mr. Toney asked if Mr. Brim issued violation notices.

Mr. Brim noted that he would for zoning violations. He indicated Public Works and building nuisances are separate.

Mr. Toney asked administration a couple of weeks ago to look into the appearance of Main Street since a couple of the lots are overgrown. He asked Mr. Brim if he followed up on it.

Mr. Brim explained that he could only file violations under Section 70 of the zoning ordinance and he believed what Mr. Toney was asking about fell under Section 62. He noted that Public Works recently issued several notices.

Mr. Tkac noted that Main Street was being made the priority and that violation notices have gone out.

Mr. Toney asked if there would be a difference in the appearance within the next month.

Mr. Tkac indicated that was what staff was working toward.

Mr. Brim explained that for a nuisance, which high grass would fall under, there is a 10-day period for the nuisance to be brought into conformity. If it is not done then the Town can abate the nuisance and mow the grass.

Mayor Foreman asked who handled trash around businesses.

Mr. Brim indicated that was Public Works.

Mayor Foreman said he would speak with Mr. Tkac later.

Mr. Brim mentioned that later on the agenda is a discussion on the civil penalties section that will provide a little more enforcement to what can be done. Currently there is a waiting period of 30 days before taking action. This will allow staff to bring property into conformity a lot faster than what code allows now.

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Mr. Brim explained that the Council sent it back to the PC to provide a second option. The PC felt that a recommendation was made; however, there is the ability for staff to craft the language based on comments from Council, take that to the PC for a formal decision, and then bring that back to Council. The PC does not need to write the language, but they can formally make a decision on it.

Ms. Forrester was a little confused because the PC on many occasions has written language. The Council has specifically asked for it two times now. Council was hearing loud and clear that the PC does not think it is a good idea; however, the PC works for Council. She mentioned the PC came to Council not quite a year ago about problems with staff twisting things. It was noted then that the PC works for the Council and not staff. She stood up for the PC being appointees of Council and that they work under the direction of Council and not staff. It was confusing to her now that the PC would wait and see what staff wants. After the last Council meeting, she had walked in on a conversation the Town Attorney and Zoning Administrator were having. The Zoning Administrator was saying that the PC did not think it was a good idea and asked what Council could do if the PC refuses. The Town Attorney responded there was nothing Council could do. She felt the whole situation was set up and she did not like it. There was no mention at the last Council meeting that staff would write it and the PC would review it. She asked if staff was going to write it why it has not already been written. She asked why Council was still hearing from the PC that they once again are not going to comply with the Council's request. She thought if the Council was going to have a PC that was not going to do what Council requests it to do then Council needs to take a serious look at that and find a PC that is willing to do that. The PC is here to give the options to Council requested to review. The Council does not have the skill set and the reason for the PC. Council understands that the PC does not agree with it and do not recommend it; however, Council appointed the PC to give the options that are requested. She asked if staff was going to craft the language. The PC clearly is not going to do it.

Mr. Taber advised Council that staff would craft the language being requested. The process is to take it to the PC. The PC has already indicated that they will not support it. Then it will come back to Council to make the final decision on the two matters.

Ms. Forrester asked when the PC crafts and staff crafts language. It appears that when the PC wants to recommend something they have no problem crafting the language. She wanted

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some clarity to the process and if staff was going to craft the language two weeks ago, why it was not done.

Mayor Foreman explained that with things like the Comprehensive Plan the committee works with staff and goes page by page. When it comes to ordinances, 99 percent of them are already written. When a change goes before a committee to review usually staff already has recommended language prepared for discussion. In this particular case when Council sent the language down to the committee, there was no other language to work from. As noted before Prince William County does not allow these types of food vendors so they have no language to look at. It has to be that staff craft the language and throw it to the PC for review. He thought it was incumbent on staff to write the language. Where there could be a problem is when it goes to the PC and they refuse to review it. That is when there seems to be a, what is the PC doing. He has not heard the PC say they would not review the language. He has heard the PC say they do not agree with them operating as roadside vendors. He indicated that if the language was provided the PC would review it, because they work at the direction of Council and Council has requested that the language be reviewed. It is after that the language will come to Council to discuss and vote on.

Ms. Forrester noted that there was no thinking that because they have told Council twice now that the PC is not going to write the language. She noted that does not change the fact that that is what Council directed them to do. She pointed out that since staff and the PC are against it and no one seems to be willing to give Council what it has asked for with or without their endorsement of it, she is suspect of the whole thing. She felt the Council needs to speak with each of the PC members and get them to reaffirm their commitment to serving Council. She explained the PC has to be willing to carry out what Council has directed them to do and if they are not they need to be replaced.

Mr. Taber asked for clarification on whether that be staff or the PC is to craft the language.

Ms. Forrester was okay with staff doing it and felt there was a separate issue to deal with.

Mayor Foreman asked Mr. Russell to work with the Town Manager. The answer Council needs is when will the language be presented to the PC. This will allow any Council Member be there to look at the language and listen to discussion.

Mr. Brim advised the language would be presented to the PC at their October 15 meeting.

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Ms. Washington wanted to know where Council goes from here. There seems to be confusion as to who is responsible for what. She wanted to see this resolved in writing to see how the process really should work as far as Council giving direction to any of the committees. She asked whether it would be the responsibility of the staff working with the committee to see that the documents are produced that Council is requesting. She felt this needed to be cleared up.

Ms. Sanders noted the motion specifically directed the PC to devise the language. It is obvious that the PC does not want to support this. Generally speaking, staff does craft the language, it goes to the PC, and then to Council with a recommendation to approve or not. She felt that perhaps there was some confusion in what would ordinarily have taken place with staff developing the language and the motion for the PC to come up with the language.

Ms. Washington asked if there was a written chain of command as to how the process should be done.

Ms. Sanders noted there is State Code.

Ms. Washington asked if there was for the Town itself.

Ms. Sanders was not aware of any.

Mayor Foreman explained the committee Chair can talk to the Town Manger since he controls the resources. He was not hearing that the PC was refusing to review the language once staff prepares it.

Mr. Taber noted that staff would always provide assistance in situations like this. He mentioned that before the second meeting in October there is a joint meeting scheduled with the PC and would be an ideal time to deal with and discuss this issue.

Mayor Foreman mentioned the Architectural Review Board (ARB) wanted to write something last fiscal year. The ARB came before Council explaining they only meet once a month and do not have the manpower and resources to write it. They requested that a consultant be hired to assist in the process. He explained that this particular profession has run the gamut. The Council wants to see this type of operation able to run in this Town one way or the other. He understands the PC not wanting to support this. He indicated what Council was looking for was the professional language from the PC to craft it and then let Council decide.

Ms. Forrester asked for clarification on what was being said because what she was hearing was not what Mayor Foreman was hearing.

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Mr. Russell explained the PC was provided with language. The language was modified to provide the PC's best recommendation based on the use. The language was then forwarded to Council. Obviously, something was missed in the language that Council is looking for. The PC could not find any language that would fit that use. The PC does not have any issue with looking at a proposed zoning ordinance and making a recommendation. The PC found it very difficult to try to craft language that would allow that use in the Town.

Mayor Foreman was not confused. He asked for two sets of language. One set of language for vendors to operate at festivals and planned events. A second set of language was requested that a food vendor could operate seven days a week street corners, main thoroughfares, anything. What Council received was language for food vendors at festivals and a statement that the PC did not think that they should operate seven days a week and the reason it was kicked back to the PC. He reiterated that staff is going to write the language and the PC is going to review it.

Mr. Taber agreed.