



DUMFRIES, VIRGINIA  
Virginia's Oldest Continuously Chartered Town  
CHARTERED 1749 INCORPORATED 1961

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**DUMFRIES TOWN COUNCIL  
REGULAR SESSION MINUTES  
MAY 17, 2010, 7:00 PM**

**Present:** Mayor Yohey, Vice-Mayor West, Councilors Barr, Foreman, Jurgensen, Toney

**Absent:** Forrester

**Others Present:** Cathy Holtzlander, *Asst. Town Manager*; Kristi Caturano, *Town Attorney*; Chief Taber, *Chief of Police*; Greg Tkac, *Dir. of Public Works*; Debi Sandlin, *Dir. of Economic Development & Marketing*; Linda Frye, *Property Maintenance Official*; Teresa Johnson, *IT Manager*; Catherine Koslicki, *Town Clerk* and 10 citizens.

**PUBLIC HEARINGS**

**1. Proposed Ordinance Amendment to Sec. 70-1, 70-142 and 70-143, relating generally to Duplexes in the R-2 District**

Mayor Yohey opened the Public Hearing at 7:00 PM. O'Kelly Russell, Vice-Chair of the Planning Commission, reviewed the definition and language changes. He advised the Planning Commission recommends adoption of the proposed amendment. There were no citizen comments. The Public Hearing closed at 7:05 PM.

**2. Proposed Ordinance Amendment to Sec. 14-95 through 14-171 relating generally to Identification and Inspection of Rental Dwelling Units**

Mayor Yohey opened the Public Hearing at 7:05 PM. Ms. Frye reviewed the changes to the ordinance adopted in 2005.

Councilman Foreman asked if the town currently has more rental units than when the original language was drafted in 2005. Ms. Frye affirmed. He stated the question regarding the number of rental units within the town was asked previously by Council. She advised the information has been included as part of her memo to Council. He stated only those rentals within the Rental District are affected by the ordinance. She affirmed.

Mayor Yohey asked what percent of the town can be classified as a "Rental District." She stated the total percentage is for Council to decide, but the entire town cannot be classified as a "Rental District." Council Lady Jurgensen asked what percent of the town is included in the proposed Rental District. Ms. Frye advised approximately 62%. The Mayor asked if that percent primarily included the townhouse and mobile home communities. She affirmed.

There were no citizen comments. The Public Hearing closed at 7:13 PM.

Mayor Yohey stated the Council would take a short recess prior to the Work Session.

### **WORK SESSION**

Mayor Yohey called the meeting to order at 7:03 PM, followed by the Invocation and the Pledge of Allegiance.

The following changes were made to the agenda:

#### Staff Reports

Add 5C, Chief of Police

#### Action Items

Remove 6C, item will be discussed at a future meeting

Remove 6E, PC member resigned

Add 6E, Bond Release for White Haven

#### Closed Session

Add (3)Real Estate to discussion

### **CITIZEN COMMENTS**

Rafael Lopez-Orange Street- submitted a letter to Council. He advised Council of two issues: potholes on Orange Street and citizens placing structures on public property.

### **MAYOR COMMENTS**

Mayor Yohey stated he attended a Boys & Girls Club fundraiser the night before. He stated he has invited the organization to the 6/5 meeting to provide additional information on the reopening of the Heiser Camp.

He announced the Town Manager will be celebrating her 2<sup>nd</sup> anniversary on June 1<sup>st</sup>. He asked the Town Clerk to supply Council with a blank appraisal form to prepare for the Ms. Alexander's evaluation.

### **BOARDS & COMMISSIONS**

**a. Planning Commission:** Report provided by O'Kelly Russell, Vice-Chair. He advised Council the PC report had already been provided regarding their last meeting on May 9<sup>th</sup>. They discussed the PC and staff comments regarding the Hashimi rezoning application with the applicant and his civil engineer. He stated they anticipate receiving an amended application. They also discussed the PC's budget. He stated in the future, the PC will provide Council with a full budget for review. He advised in response to concerns related to parking issues at daycare centers (discussed at the joint meeting with Council in March), the PC has been working on amendments to address the concerns.

Councilman Foreman asked if there were plans for travel/training this year. Mr. Russell advised there were not. Councilman Foreman asked if they had plans for next year. Mr. Russell advised they were not sure at this time. Councilman Foreman stated \$4000 had been added to the Boards & Commissions' budget for FY12 and the PC is not sure of travel/training. Mr. Russell affirmed. Councilman Toney asked if all of the current members were certified. Mr. Russell affirmed.

Council Lady Barr asked if the PC would like Council to present a Proclamation to Mr. Williams for his years of service. Mr. Russell affirmed. She asked if Council will be receiving a recommendation from the PC for a replacement for Mr. Williams. Mr. Russell advised there have been a few people who have shown interest in filling the vacancy. He advised staff will be presenting candidates with a recommendation to Council soon.

- b. Historic Dumfries, Virginia:** Report provided by Joann Barron. She thanked Council and the town for their support of Charter Day and the Dumfries Resolves. She announced the following upcoming events: a free lecture on June 9<sup>th</sup> at 7PM titled "Is Dumfries Elementary Built on a Slave Cemetery?"; HDV annual member meeting on June 9<sup>th</sup> following the free lecture and a Civil War event on July 2-3 with the 49<sup>th</sup> Virginia Regiment musters.

Councilman Foreman and Council Ladies Barr and Jurgensen all congratulated HDV on a wonderful Charter Day event.

### **STAFF REPORTS**

- a. Treasurer:** Ms. Ladd submitted her report as provided and highlighted the memo included regarding the request for Council to set the tax rate for the calendar year instead of the fiscal year.

Mayor Yohey asked the advantage of setting the tax rate for the calendar year. Ms. Ladd advised the advantage would be allowing citizens to pay a full year at the same tax rate. He asked if the Town Attorney would need to provide a formal opinion on whether the action is permissible. Ms. Ladd advised the state grants localities the permission and PWC currently adopts a tax rate for a calendar year. Vice-Mayor West asked for the item to be placed on the agenda for the next meeting. (6/7/2011). There were no objections.

Councilman Foreman asked if Ms. Ladd had resolution to the tax billing mail issue. She affirmed and stated she has already taken measures to prevent the issue in the future. He asked why several of the "Benefits" line items had credits. Ms. Ladd stated she would look into the account history for the line items and report back to Council at a later date. *(Ms. Ladd reported later in the meeting the credits were due to employee payments for health insurance. She stated the payments are normally due prior to the report, but had not been received the notice at this time.)*

Councilman Foreman stated the budget for Admin (p.4 of 22) is \$1,063,940, the YTD amount is \$840,170.11. He asked if there will be a surplus at the end of the fiscal year. Ms. Ladd advised she cannot answer that question. She stated she would assume the monthly spending for both May and June would be close to the MTD for April. He asked Mr. Tkac about the unspent funds in Buildings & Grounds (p.7 of 22), Street Maintenance (p.10 of 22) and Public Works (p.12 of 22). He stated the unused funds for the three departments total \$144,000 and asked if it would be spent in the next two months. Mr. Tkac stated the funds remaining in each department are earmarked for specific projects. Councilman Foreman asked for details regarding the projects for the next meeting. He also asked why the budgets increased by \$250,000 for the next fiscal year. Mr. Tkac advised there are funds that are "money in/money out" that are not public funds. He cited CDAR as an example.

- b. Town Manager:** Ms. Holtzlander stated the Town Manager would like to thank Council for their understanding of her absence. Ms. Holtzlander also welcomed Mr. Tkac back and said citizens should be receiving notices soon regarding upcoming projects.

Councilman Toney asked for an update on the status of the BZA appointments. Ms. Holtzlander advised the Town Attorney had submitted the nominations to the Circuit Court. Ms. Koslicki advised she is still waiting for the nominations to be approved. Councilman Toney asked why the process has taken a long time. Ms. Holtzlander stated there were a number of issues that have contributed to the delay. She advised staff has done everything required to move the process forward. She stated the biggest issues have been recruiting citizens to serve on the BZA and waiting on the Circuit Court approvals. Mayor Yohey asked if information on the last BZA meeting could be provided. Ms. Holtzlander advised she will provide the information to Council.

Councilman Foreman stated the Graham Park Road Park (the park) was discussed during the budget process and money was taken from various line items to add to the funding for the project. He stated there have been no plans, drawings or timeline presented to Council. He feels these things are important and should be addressed. He stated making the lot safe would be the primary priority, then a vision and then construction. Ms. Holtzlander advised she will pass the comments along to the Town Manager. She advised safety is the primary concern of the staff as well and they are currently working on remedying the situation. She stated the Town Manager does believe she needs the citizen's input before bringing any plan to Council for consideration. Councilman Toney stated he appreciates the support of Council and their efforts to move the park project forward. He also agrees that citizen input is important and he would recommend a public input meeting be held at the Rescue Squad. He also agrees with Councilman Foreman's comments (timeline, etc.).

Mayor Yohey asked if Chief Taber would comment on the possibility of a substation at the park. Chief Taber stated it was too early to discuss in detail, but he things the park would be a prime location for police efforts. He stated he could envision a small office that would serve as a quick stop location for the officers.

- c. Chief of Police:** Chief Taber announced that Mr. David Lomeli has an opportunity for a second internship and he has chosen to stay with the Dumfries Police Department. He also announced they have a second intern, Ms. Brittany Alexander, who is also a Criminal Justice major. He stated both of them will be assisting the Chief with the youth program. He stated Mr. Lomeli had the opportunity to participate in "ride-alongs" and provided translation services for the officers/citizens. He stated he hopes Ms. Alexander will have the same opportunity.

Council Lady Barr congratulated the interns, welcomed them and thanked them for their service.

### **ACTION ITEMS**

- a. Consider Adoption of the Proposed Ordinance Amendment to Sec. 70-1, 70-142 and 70-143, relating generally to Duplexes in the R-2 District (1<sup>st</sup> Reading: 5/3/2011)**  
Vice-Mayor West made a motion to adopt the proposed ordinance amendment to Sec. 70-1, 70-142 and 70-143 relating generally to Duplexes in the R-2 District. The motion was seconded by Council Lady Barr. On roll call the vote was unanimous, motion passed.

- b. Consider Adoption of the Proposed Ordinance Amendment to Sec. 14-95 through 14-171 relating generally to Identification and Inspection of Rental Dwelling Units (1<sup>st</sup> Reading: 5/3/2011)**

Vice-Mayor West made a motion to adopt the proposed ordinance amendment to Sec. 14-95 through 14-171 relating generally to Identification and Inspection of Rental Dwelling Units. The motion was seconded by Council Lady Jurgensen. Ayes: Barr, Foreman, Jurgensen, West, Yohey; Nays: Toney. Motion passed, 5-1.

- c. Consider Adoption of the Proposed Ordinance Amendment to Sec. 2-30 relating generally to Rules Governing Meetings of the Town Council and Formal Adoption of Robert's Rules of Order in the Governance of Town Council Meetings (1<sup>st</sup> Reading: 5/3/2011)**

*This item was removed from the agenda.*

- d. Consider Approval of the Summer Intern Program Student Selection Recommendations**

Ms. Holtzlander advised she received a total of 16 applications for the summer intern program and she has presented three for Council approval. She would like to invite them to the June 7<sup>th</sup> meeting.

Council Lady Jurgensen made a motion to approve the summer intern program student selection recommendations. The motion was seconded by Council Lady Barr. On roll call the vote was unanimous, motion passed.

- e. Consider Release of the E&S Bond for White Haven (Item replaced original agenda item 6E, Consider Removal of Planning Commission Member)**

Mr. Tkac stated he received the letter requesting a bond release for 17560 & 17562 Duke Street. He advised the developer has met the requirements necessary and the town has been holding the bond for completion for a long time.

Vice-Mayor West asked about the handwritten letter included with the request. Mr. Tkac advised the town required the developer to get a letter from the neighboring property owner approving the work as a condition of the bond due to ongoing issues.

Councilman Toney asked for the amount of the bonds to be released. Mr. Tkac advised both bonds are for \$3617 each. Councilman Toney asked for future submissions to Council (regarding requests for bond release) be consistent. Ms. Holtzlander advised Council due to the length of time the bond has been held, she felt it important to obtain resolution and she pushed for the item to be included on this agenda.

Council Lady Barr made a motion to release the E&S Bond for White Haven with a second made by Council Lady Jurgensen. On roll call the vote was unanimous, motion passed.

## **DISCUSSION ITEMS**

- a. Closed Session Conduct and Items of Discussion**

The full content of Councilman Foreman's statements regarding the discussion item appears below.

*I have no problem attending meetings, open, public, scheduled or closed. I'm proud to say I'm from Dumfries, Virginia. I understand partisan politics; I can and will support initiatives that move this town forward. I have voted in the past to not go to closed session; for all the reasons that Councilwoman Forrester currently refuses to attend.*

*Our open sessions can get pretty wild, now take that and times it by two, and you still will not have experienced a closed session. These meetings are brutal.*

*If council members can't live by codes of conducts that they signed in public, what makes anyone think it is any different in closed session.*

*1. Discussion on Closed Session Conduct & Items of Discussion.*

*This is an open to public discussion. This is not about discussing closed session topics ie. Purchasing of property, Hiring actions, and Potential new businesses coming to Dumfries. Rather this is about parliamentary procedures, items added to closed sessions, and discussions & conduct while in closed session.*

*2. Conduct of Council in closed session*

*I'd like to talk about why Councilwoman Forrester doesn't attend and why I have voted no on several occasions to not go to closed session. Where does anyone on this council get a right to question someone's education? Where does anyone on this council get a privilege to make fun of or question someone's accent? The berating, yelling, and playing of sarcastic air violins has no place in public or in closed session. I've sent e-mails in the past concerning closed session conduct and yet it has now evolved to a council member not attending closed sessions and the now there are a couple of council members requesting impeachment of a council member, limiting a council member's authority, and questioning her ability to vote on a matter discussed in closed session. If there is a discussion concerning censorship it should be here in open session for the public to hear. If there is a discussion concerning censorship it should be at two levels: What is said.....the insults, the bashing of accents, the questioning of education and what is written...Town Manager e-mails with sarcasm and lack of providing information.*

*3. Items of discussion (drifting from items to be discussed)*

*Discussions need to stay on target; all too often discussions drift and listeners are subject to stories from council members of how things used to be in Dumfries, old stores, no sidewalks and such. These items were not on the agenda.*

*4. Parliamentarian needs to be in closed session*

*We need a Parliamentarian in closed session. I was wrong in my judgment of requesting that the Vice Mayor hold the responsibilities to perform as a parliamentarian. I do not believe that she can enforce policies, procedures and ordinances with impartiality. Vice Mayor signed a code of*

*conduct, you specifically pointed out that Robert's Rules of order identify a code of conduct, but you refuse to obey any rules of civility.*

*5. Closed session needs to be structured*

*The Town Manager has no problems sending e-mails and labeling them confidential; how about sending background e-mails on the same day we receive our council packages. This would eliminate a large portion of the discussions in closed session. A lot of what we are hearing is background and status. I have no problem hearing other council members' opinions concerning a decision; it's getting to that point that can sometimes take 30 minutes to an hour. I for one do not want to hear any more employee matters. I trust the town employees and department heads and I am proud of the work they are accomplishing, however as a council member, I can't defend an employee when the Town Manager fires them, such as happened three times in the past 10 months. I am taken aback each time we have a closed session concerning town employees and I find that there is no documented counseling sessions with the employee and then when an employee is terminated I receive no notification until after the fact and I'm told it's because the council cannot be trusted. So do not discuss perceived morale problems with the staff to me. I can't defend a town employee. I can't fire a town employee.*

*6. Open session is 2 hrs 30 minutes; why is closed session another 2 hrs 30 minutes.*

*These closed sessions are currently nothing more than endurance sessions with the majority of them ending close to midnight.*

*7. Closed session needs to serve a purpose; not an information session.*

*I am willing to commit all the time required to make informed decisions. I'll stay as late as it takes. But I have got to say that some of these sessions are a waste of time. Every closed session should be provided with a background and decision point read-a-head from the Town Manager. In this way the council can come to meetings prepared to discuss items rather than listen to pre-decisional information.*

*Vice Mayor - You stated a few meetings ago that you are not held accountable to any council member for your actions; you were held accountable by the voters. I disagree in that when your conduct impedes other council members from voicing their opinions and when your conduct chastises and degrades someone's education, then you are accountable to the council.*

*There is a lack of control within the chambers to stay on agenda. This bad conduct or lack of appropriate conduct falls upon the shoulders of two individuals. I believe that this detrimental conduct by council members has now migrated to the Town Manager e-mails with sarcasm, and responses that are stating that information will not be provided unless council directs. There has got to be a better way to do business.*

**COUNCIL COMMENTS**

Council Lady Barr stated she attended the Quantico Music Festival and had a wonderful time, she hopes they have the event again. She announced May 20<sup>th</sup> is “Bike to Work” Day and PWC will be sponsoring “pit stops” throughout the county.

Councilman Toney stated the previous week was National Law Enforcement Week. He was very moved by the ceremony held at the national memorial and the experience renewed his appreciation for the Police Department and what they do. He thanked Chief Taber and his staff. Chief Taber thanked Councilman Toney for his support and for reminding the citizens of the event.

Council Lady Jurgensen, Councilman Foreman and Vice-Mayor West had no comments.

**CLOSED SESSION**

Vice-Mayor West made a motion to enter into closed session under Virginia Code § 2.2-3711A (1) Personnel regarding the position of Town Attorney and (3) Real Estate. Council Lady Barr seconded the motion. On roll call the vote was unanimous, motion carried. Council entered closed session at 8:46 PM.

Vice-Mayor West read the certification to end the closed session and to return to open session. The motion was seconded by Council Lady Jurgensen. On roll call the vote was unanimous, motion carried. The Council returned to open session at 9:20 PM.

Councilman Toney stated (for the record) that he did not participate in the interview process for the Town Attorney, but he feels confident in the ability of the other members to ask questions. He has reviewed the information and supports the recommendation of the Council. He stated he will be voting on this issue.

Council Lady Barr made a motion to authorize staff to offer the position of Town Attorney as discussed. The motion was seconded by Council Lady Jurgensen. On roll call the vote was unanimous, motion passed.

**ADJOURN**

Council Lady Barr made a motion to adjourn with a second by Councilman Toney. All Ayes. The meeting adjourned at 9:24 PM.

Minutes submitted by

Approved by

\_\_\_\_\_  
Catherine H. Koslicki  
Town Clerk

\_\_\_\_\_  
Fred E. Yohey, Jr.  
Mayor