

**DUMFRIES TOWN COUNCIL
WORK SESSION MINUTES
AUGUST 17, 2010, 7:00 PM**

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

Others Present: Kim Alexander, Cathy Holtzlander, Kristi Caturano, Greg Tkac, Major Colgan, Mr. Forker, Linda Frye, Catherine Koslicki and 7 citizens.

(Council had previously entered Closed Session under Virginia Code § 2.2-3711A (1) Personnel to discuss the position of Director of Community Development.)

Mayor Yohey called the meeting to order at 7:01 PM and asked if there was any business to report from the Closed Session. Vice-Mayor West made a motion to off the Director of Community Development position to the first candidate. The Council Lady Forrester seconded the motion. On roll call, the vote was unanimous, motion carried.

Mayor Yohey stated he had one item to amend on the agenda. He stated the next meeting for Historic Dumfries will be August 18th. Mayor Yohey asked if there were any additional amendments to the agenda. Vice-Mayor West stated she would like to change Agenda Item #4 from “Consider scheduling a Public Hearing” to “Discussion by Council.” (Agenda items are amended as suggested, no vote needed.)

MAYOR AND COUNCIL COMMENTS

Mayor’s Comments:

Mayor Yohey stated he had no comments.

Council’s Comments:

Vice-Mayor West stated she had no comments.

Council Lady Forrester stated she had no comments.

Councilman Toney stated he had not been able to contact Mr. Dutton, but still has donation for him. He also stated he has information on a physician available for Town citizens that may be able to offer discounted services. Councilman Toney thanked four (4) Prince William County Police Officers for their response to an incident regarding a dispute between two groups in the South Cove neighborhood.

Councilman Foreman stated she had no comments.

(Mayor and Council Comments, cont.)

Council Lady Barr thanked the interns for their hard work and for their feedback. She also stated (for the record) that Ms. Cornell did repay the Town for expenses of a missed trip.

Council Lady Jurgensen thanked Ms. Holtzlander for managing the Summer Intern Program. She also thanked Mr. Tkac for his comments regarding Harbor Station. Council Lady Jurgensen advised Major Colgan of repeated wrecks that occur on a Mr. Webb's property located at in the Tripoli Heights area. Major Colgan advised he would look into the issue.

CITIZEN'S COMMENTS

No citizen comments.

BOARDS & COMMISSION/COMMITTEE/STAFF/ TOWN ATTORNEY REPORTS

a. Architectural Review Board: No report.

b. Planning Commission: Ms. Frye reported, on behalf of the Planning Commission, their last meeting was August 9, 2010. The legal department presented a suggestion on a proposed by-law change. There were minor amendments and a vote for approval will take place at the next regular meeting on September 13, 2010. An application for a CUP for a home for Chronically Homeless men was submitted. The Planning Commission has agreed that additional information is needed and have requested the applicant be present at the next meeting to answer questions. The Planning Commission hopes to be able to bring this issue to Council in the near future with a recommendation.

c. Board of Zoning Appeals: No report.

d. Historic Dumfries: Mayor Yohey stated there was no report, but the next meeting was scheduled for August 18, 2010.

e. Dumfries Business Association: No report.

f. Treasurer's Report: Ms. Alexander submitted the report, on behalf of the Treasurer, as provided.

Council Lady Jurgensen asked what the checks written to University of Virginia were for. Ms. Alexander stated she would send the answer via email.

Councilman Foreman stated he had several questions relating to the report. He asked if checks received were the checks expended. Ms. Alexander answered in the affirmative.

(Treasurer's Report, cont.)

Councilman Foreman questioned salary and pension amounts for a few departments (p.4 of 22 and p.6 of 22). He asked if these salary and pension amounts were for one month only. He stated if these salaries were multiplied by 12 (months), the line items would be over budget. Ms. Alexander advised the salary and pension amounts for the month are based on the number of pay periods in the month. She stated there are 26 pay dates; Town staff is paid every two (2) weeks. Ms. Alexander also stated she would have the Treasurer prepare answers and provide them via email.

Councilman Foreman questioned the salary amount for the Police Department (p.8 of 22). He asked if the salary was for a few individuals. Ms. Alexander advised in the affirmative also stated the salary amounts included payouts for annual and sick leave for a few individuals that were no longer employed by the Town. She advised she would provide a breakdown of the salary amount at the next session.

Councilman Foreman questioned the Police Department lease payment amount (p.8 of 22), stating if the same amount is paid every month (as in the month reported), and this line item will also be over budget. Ms. Alexander advised there were other fees included in the amount listed on that line item that do not have to be paid every month.

Councilman Foreman also questioned the amount for "Leased Vehicles" (p.13 of 22). Mr. Tkac advised this line item refers to the lease payment for the Public Works Sweeper truck and the amount should not have been included on this line item, it has been transferred to another line item. Ms. Alexander advised the Treasurer will make the correction.

Councilman Foreman also questioned the amount for "Benefits" (p.11 of 22), stating the amount shown is a negative number indicating the individual gave money back to the Town. Ms. Alexander advised she would have the Treasurer prepare an answer and provide it via email.

Councilman Foreman also questioned the amount for "Other Unbudgeted" (p.16 of 22), wanting an explanation of this line item. Ms. Alexander advised these figures represent what we hope our balance will be at the end of the year (a projected "in the black" figure).

Councilman Foreman asked (in reference to the ending balance) where the money went from the end of 2009. Ms. Alexander advised the balance was moved to the general fund and placed into the best account to earn the most interest.

Councilman Foreman asked if the amount could be available at the next meeting. Ms. Alexander advised in the affirmative.

Council Lady Barr reminded Council that the Town's reserves had been used & the Town had an increase in revenue at the time due to billing, putting the Town in the "red."

Mayor Yohey asked if the Town had a surplus or a deficit. Ms. Alexander stated Council Lady Barr was correct. The Town did use reserves to cover operating costs; however, based on the amended budget, the Town showed a surplus. Mayor Yohey asked if a document could be provided to show both outcomes. Ms. Alexander advised in the affirmative.

Council Lady Jurgensen asked if no money had been spent to date on "General Orders" (p.8 of 22), had the project been started. Ms. Alexander stated the project has been started; the Town had not received the first invoice to pay at this time.

(Treasurer's Report, cont.)

Council Lady Forrester asked why we paid monthly to Lexis Nexus (p.1 of 3, ck# 21097 & 21106) instead of yearly. Teresa advised we are billed monthly for the "Accurint" service as used.

Mayor Yohey asked if the Treasurer's Monthly Receipts & Expenditures report could be changed to add description column explaining what the check was written for. Teresa advised the Town cannot make the change in house. Citipak would have to make the change and the Town would be charged accordingly. Vice-Mayor West asked if changing the report was an item Council would want to add to the budget. Ms. Alexander advised she could look into other software alternatives.

g. Town Attorney's Report: Ms. Caturano submitted the report as provided; advising Council the only difference in her usual report was the civil litigation issue to be discussed in Closed Session.

Council Lady Barr asked for an explanation of the "Profane Language Over Public Airways" charge. Ms. Caturano advised the charge resulted in a citizen complaint that profanity had been used during a cell-phone conversation.

Councilman Toney asked why there was only one (1) Juvenile & Domestic case heard. Ms. Caturano referred Council to her note stating there was no regularly scheduled Juvenile & Domestic Relations court date this month for the Town due to a judicial conference. She also stated all cases will be heard on the court date scheduled in September.

ADDITIONAL AGENDA ITEMS

Discussion on Amendments to Town Code Section 2-83(b)(17), Town Manager Duties:

Vice-Mayor West stated she was very upset that some members of Council had notice of this item weeks prior. She also stated she feels the current ordinance is adequate. Vice-Mayor West stated she thinks City of Fredericksburg's code says same thing as the Town's code. She stated she does not support this proposed amendment.

Council Lady Barr stated when an email is addressed to only to 2 (of 7) members, she assumes the others members already approve the amendment. She asked for Council to look at the information provided by Vice-Mayor West and herself, and would like to attention paid to the amount of staff time and salary that could potential be wasted.

Mayor Yohey stated the code specifies certain exceptions that are currently not being followed. He asked Vice-Mayor West & Council Lady Barr if they were suggesting Council not be allowed to ask questions of staff.

Council Lady Barr replied no, her suggestion would be to continue to direct things through the Town Manager and let her delegate.

(Discussion on Amendments to Town Code Section 2-83(b)(17), Town Manager Duties, cont.)

Vice-Mayor West stated that all members have received training regarding protocol and it is the responsibility of each member to use common sense. She stated the issue is when Council Members try to give directives to staff. Vice-Mayor West also stated the requests or questions by Council Members could be interpreted by staff as a “directive.” She reiterated that she believes the Town has a good code in place.

Mayor Yohey stated (for the record) this proposed change was generated by a question he asked of a department head. He stated he never gave a “directive” and stated the conversation he had with Mr. Tkac was an inquiry only. Mayor Yohey stated the information provided by Ms. Alexander in her review included the Police Department assessment report stating political interference, and he assumed her inclusion was referring to his actions. He stated he does not feel he has interfered.

Council Lady Barr stated no one, including the Mayor, was specifically identified. She stated the implication (of a directive) is made when a specific question is made about a specific problem at a specific location. Council Lady Barr stated (in reference to the political interference), the problem was identified in the Police Department assessment report and no one was specified in the report.

Vice-Mayor West stated she also did specify anyone, including the Mayor. She stated she feels that rewriting the current code has become a personal issue for the Mayor and she does not support the change.

Council Lady Forrester stated she doesn't feel that any motion based on a personal issue would get enough support from the Council to pass.

Council Lady Jurgensen asked if when an inquiry is made to staff is not the consent of the Council.

Mayor Yohey stated that would imply the majority rules and that is not how the Council decided they would ask questions of staff. He stated there is a written opinion prepared by Smith & Davenport (approximately in 1999 or 2000) addressing this issue. He asked Ms. Caturano if she had access to previous opinions. She stated she will review her files regarding the memo.

Council Lady Barr cited the previous budget for legal fees as an example of the amount of money that could potentially be spent by Council if the proposed amendments are passed.

Council Lady Forrester asked Council to consider and respect each member's view point and not make assumptions about their intent.

(Discussion on Amendments to Town Code Section 2-83(b)(17), Town Manager Duties, cont.)

Ms. Alexander addressed comments made by Council Members regarding the proposed amendment. She stated (as shown by Vice-Mayor West and Council Lady Barr) there is a cost associated with staff in terms of time & resources. She stated (regarding the dirt issue), she never said the Mayor gave a “directive” to Mr. Tkac. She stated the issue arose when the landfill representative informed her that a Councilmember had asked to move some dirt. She stated the “directive” was implied to staff, as well as to the landfill representative. Ms. Alexander stated, regarding the Police Department assessment, the intent was to show political interference has already been identified as a problem and the report did not specify any specific Council Members, nor did she. She reminded Council that some members have given previous directives that ended resulted in lawsuits against the Town. She stated the firing responsibility should stay with the Town Manager.

Mayor Yohey stated the only reason the amendment changes are being proposed is because some members of Council did not agree with his interpretation of the current code.

Council Lady Forrester stated perhaps Ms. Alexander needs clear direction from Council as to their interpretation of the code. Ms. Alexander stated Council should clarify what is to be considered “inquiry” and “information.”

Vice-Mayor West exercised her right as Vice-Mayor and made a motion to move forward with the next item on the agenda. The motion was seconded by Council Lady Jurgensen. (No vote required.) Motion carried.

Appointing Voting Delegate and Alternate Voting Delegate for 2010 VML Conference Business Meeting:

Mayor Yohey stated he will attend the conference and he is prepared to vote. He suggested the alternate be Vice-Mayor West and asked if there was a motion. Councilman Toney made the motion as suggested, with a second by Council Lady Barr. On roll call, the vote was unanimous, motion carried.

Proclamation for Domestic Violence Awareness Month:

Council Lady Forrester made a motion to approve the Proclamation for Domestic Violence Awareness Month, with a second by Councilman Toney. On roll call, the vote was unanimous, motion carried.

Summer Student Internship Survey Results:

Ms. Holtzlander stated the intern surveys had been provided for Council’s review. She thanked the Council for approving the program this year and also thanked the staff for their assistance with the interns.

(Summer Student Internship Survey Results, cont.)

Vice-Mayor West and Councilman Toney both thanked Ms. Holtzlander for managing the intern program.

Performance Bond Release, Town Center Project:

Mr. Tkac stated the Public Works Department has reviewed the project elements and recommends the release of the remaining \$100,000 which represents the full release of this bond.

Council Lady Forrester made the motion to approve the bond release as recommended, with a second by Vice-Mayor West.

Council Lady Barr asked if the bond could be held because of the playground being removed. Ms. Alexander advised the Town could not hold the bond.

Mayor Yohey asked what conditions needed to be met in order to get a release. Mr. Tkac advised that all of the Town's criteria had been met.

On roll call, the vote was unanimous, motion carried.

Performance Bond Release, North Point Center North Project:

Mr. Tkac stated the Public Works Department has reviewed the project elements and recommends that Council approve the release of the remaining \$30,000.00. This release would represent a total release of the Performance Bond for North Point Center North.

Request from Croppers 1 Towing and Tires, Inc for approval for a verbiage change in Conditions on Zoning Approval letter:

Linda stated she had reviewed the request by Cropper's 1 Towing and Tires, Inc and recommends the verbiage change as requested.

Council Lady Forrester made a motion to approve the verbiage change, with a second by Council Lady Barr. Ayes: Yohey, West, Barr, Foreman, Forrester, Toney; Nay: Jurgensen. Motion carried.

Closed Session: Vice-Mayor West made a motion to enter into closed session under Virginia Code § 2.2-3711A for the purpose of discussing (7, part 1) Litigation and (13) Siting Agreement. Motion was seconded by Councilman Toney. On roll call, the vote was unanimous, motion carried.

Council entered closed session at 8:51PM.

Submitted by:

Approved by:

Catherine H. Koslicki
Town Clerk

Fred E. Yohey, Jr.
Mayor

Vice-Mayor West read the certification to end the closed session and to return to open session. The motion was seconded by Council Lady Forrester. On roll call, the vote was unanimous, motion carried.

The Council returned to open session at 9:42PM.

No action to report from Closed Session.

Councilman Toney made a motion to adjourn, with a second by Council Lady Forrester. All Ayes. The meeting adjourned at 9:43 PM.

Minutes submitted by

Approved by

Kimberly Alexander
Town Manager

Fred E. Yohey, Jr.
Mayor