



DUMFRIES, VIRGINIA

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DUMFRIES TOWN COUNCIL WORK SESSION MINUTES NOVEMBER 16, 2010, 7:00 PM

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

Others Present: Kim Alexander, *Town Manager*; Cathy Holtzlander, *Asst. Town Manager*; Kristi Caturano, *Town Attorney*; Retta Ladd, *Treasurer*; Chief Taber, *Chief of Police*; Rob Forker, *Administrative Manager (DPD)*; Julius Johnson, *Public Works Crew Chief*; Jatinder Khokhar, *Dir. of Community Development*; Teresa Johnson, *IT Manager*; Catherine Koslicki, *Town Clerk* and 6 citizens.

Mayor Yohey called the meeting to order at 7:00 PM.

The following changes were made to the agenda: move item 8a to the beginning of the agenda to accommodate the out of town speaker.

CITIZEN COMMENTS

No comments.

MAYOR & COUNCIL COMMENTS

Mayor Yohey stated in the joint meeting this month with the ARB, a suggestion by the ARB was made to establish districts. He received a letter from a business owner in the Dumfries Shopping Center, stating what a great job the DPD has been doing and he would like to commend the DPD for their continued efforts. He reminded everyone of the "Christmas in Dumfries" program sponsored by the DPD and he pledged \$100 to the program.

Vice-Mayor West and **Council members Barr, Foreman, Forrester and Jurgensen** had no comments.

Councilman Toney asked that everyone keep the important things at heart during this holiday season, like family, friends and neighbors. He encouraged everyone to be safe in their travels. He announced the 2nd Annual Christmas Bird Giveaway. He stated with the money raised last year, they were able to give away 50 turkeys to area families. He thanked the DPD for assisting him in identifying families and he thanked Ms. Holtzlander for providing the venue. He also thanked everyone who donated last year and he hopes to be able to give away more this year. If anyone would like to participate, he asked for the information to be sent to him through the Town Manager.

BOARDS & COMMISSIONS

- a. Planning Commission:** Mr. Padberg stated the PC has had 2 meetings since the last report. They have received a rezoning application and an application for a CUP. A minor revision of the bi-laws to help with attendance issues was also discussed. He requested for a member of Council to be part of the CP steering committee.

The rezoning application was submitted to have the Bishop property, located at 3901 Fairfax St., rezoned from residential to B1 (business). The applicant has advised the PC they would accept rezoning to B2, since B1 is not consistent with other properties in the area. The PC recommends, by a unanimous vote, Council not approve the application. Two issues discussed by the members of the PC were the location of an entry on Main St. and the application lacked a plan for use. Mr. Padberg stated it had been portrayed to the PC that the effort to rezone the property to B1 was to increase the property value and increase the attractiveness of the property for potential buyers. He stated the property had been for sale for an extended period of time.

The application for a CUP was submitted by Caribbean Treats for 17911 Main St. The application was incomplete and contained incorrect information; therefore, the PC recommends, by unanimous vote, Council not approve the application.

Council Lady Forrester asked if the Town staff will assist the applicant in completing the application for a CUP correctly. Mr. Padberg advised Mr. Khokhar will assist the applicant.

Mayor Yohey asked wouldn't a plan (for the Bishop property) be provided by whomever purchases the property. Mr. Padberg explained the PC had to consider the neighbors of the property in their decision. A study would have to be completed by VDOT on the feasibility of an entry on Main St. and he does not feel (because of existing roads intersecting Main St on either side of the site) VDOT would approve such an entry. This would limit an entry to Fairfax St., which would force traffic into a residential area to enter any business on the site.

Ms. Alexander asked if the Town could put stipulations on the rezoning that would address the entry issue. Mr. Padberg answered yes.

Vice-Mayor West stated the sign from the previous business (referring to 17911 Main St.) is still up and she asked who has who has control over this issue. Ms. Alexander advised if there is a violation, it would be the responsibility of the DCD.

Mr. Padberg advised Council the rezoning applicant (for the Bishop property) does not want to address Council until January.

Council Lady Jurgensen asked how long the (Bishop) property had been for sale. Mayor Yohey stated for approximately 3 years.

- b. Architectural Review Board:** Mr. Little stated the ARB has had 2 meetings since the last report. They have received 1 application for a COA from the Armed Forces Services Corporation for a sign. The application has been approved. They have also discussed the roles of the ARB with Ms. Sandlin and Mr. Khokhar regarding updating the guidelines and procedures for reviewing COAs and handling possible violations. (See Attachment B for ARB meeting minutes from 10/19/10 and 11/9/10.)

(Boards & Commissions-ARB, cont.)

At the joint meeting of the ARB and Council, discussion regarding possible changes to the code section pertaining to the ARB. The changes would limit the ARB's responsibility to the Historic district or districts, instead of the entire Town. Council and the ARB also discussed potential districts within the Town.

- c. **Historic Dumfries, Virginia:** Ms. Barron thanked Council and staff for including the W-BM in the Fall Festival, tours of the museum increased the following week. The October Ghosts Walks were a huge success. HDV is hosting a book reading by Cynthia Cotton, author of "Abbie in Stitches" on November 20. The event is free and great for all children. The W-BM Holiday Open House is immediately following the Town of Dumfries' Annual Christmas Parade on Saturday, Dec. 11th from 2pm-5pm. The event is free.

STAFF REPORTS/COMMENTS

- a. **Treasurer:** Ms. Ladd submitted her report as provided.

Councilman Foreman asked why Council has received an application to attend the Legislative day for the General Assembly if the line item for Council travel/training is already over budget (p.3 of 22). Ms. Alexander stated funds are available in "Unbudgeted" to cover additional items.

Councilman Toney asked why the "Town Hall" line item is over budget by 212% and we are not even half-way through the FY (p.7 of 22). He asked what was the money spent on. Ms. Alexander advised the money was for the new door (in Council Chambers), the walkway (from Council Chambers to the Community Center) and new windows in Town Hall. Councilman Toney asked if this "department" will be over. Ms. Alexander answered no, money can be moved from other line items within the same department, for example from the Garrison Park line item. The main figure to watch is the overall budget, which is still ok (p.21 of 22). She stated she will be suggested at the mid-year budget review to move money from certain line items to other line items. Councilman Toney asked if the overage for Capital Outlay was spent on the cameras (p. 8 of 22). Ms. Alexander replied she believes that is correct.

Council Lady Forrester asked why the Council approves a budget if staff does what they want. Ms. Alexander advised the code allows her the ability to move money between line items so long as the total budget number does not change. The code also allows the ability to spend within a certain percent of the total budget. Mayor Yohey stated the guidelines are outlined by both the Virginia Code and the Town Code. Council Lady Forrester expressed her concern with taking from the general fund. Ms. Alexander advised no money is being taken from the general fund. Items not covered by a specific line item, the bond closing fees for example, would come from "Unbudgeted."

(Staff Reports-Treasurer, cont.)

Councilman Foreman stated last year Council passed a budget staff called “bare bones.” Staff must be held accountable for what they have asked for and live within the approved budget. For example, if the travel/training for Council was important it should have been thought of and included in the budget. Ms. Alexander advised Council they could attend only the conference (referring to Legislative Day) and not stay overnight.

Council Lady Barr asked if the Town had received reimbursement from VML. Ms. Ladd answered yes, but the refund will be included on the report next month.

Vice-Mayor West stated she would be willing to pay her own way and not claim mileage. Ms. Ladd stated it is important for Council to turn in their expense so staff knows what to budget for the following year.

Mayor Yohey stated he believes the budget is being managed as well as possible.

Councilman Toney stated the Council’s job is oversight and it is their responsibility to ask questions of staff.

- b. Town Attorney:** Ms. Caturano submitted her report as provided and highlighted 2 items. She has responded to numerous FOIA requests and she continues to work on collecting the remaining unpaid sanitation cases. She introduced the proposed ordinance amendment relating to the responsibilities of the ARB.

Mr. Toney asked who Mr. Hallam is. Ms. Caturano explained he is a local attorney and she normally receives a couple requests from him each month. Ms. Alexander asked if the Town is charging him for the request. Ms. Caturano answered yes, if the request takes significant staff time.

Vice-Mayor West asked if the civil litigation involving property mentioned in her report pertains to the Bishop property. Ms. Caturano replied no, it is the property Council recently toured and it will be discussed in closed session.

- c. Town Manager:** Ms. Alexander asked for those members planning to attend the Legislative Day to return the application as soon as possible. She would like to add the 1st reading of the proposed ordinance amendment to Section 70-676 to the agenda under Action items (7G). The change would require a public hearing. She advised Council they will need to appoint a member to the Steering Committee for CP.

Council Lady Barr made a motion to nominate herself as the member for the Steering Committee with a second by Councilman Toney. All Ayes, motion passed.

INFORMATION ITEMS

- a. Code Academy Fee Levy charged for building permits under VUSBC:** Mr. Khokhar advised Council the information he provided was requested at the last meeting. The code stated localities shall collect the fee from the citizens.

(Information Items-a, cont.)

Council Lady Barr asked if Council action was needed. Mr. Khokhar advised no action is needed; the Town will be in compliance and he wanted to make Council aware prior to the citizens being charged.

Vice-Mayor West thanked Mr. Khokhar for finding the error.

Mr. Khokhar asked to comment on the Bishop property (rezoning application discussed earlier by Mr. Padberg of the PC.) He stated the original application had been withdrawn by the applicant a while ago. He informed Council of his intent to revamp the Town's applications. Council Lady Forrester requested that whatever changes be made to the applications be helpful to the citizens and she hopes that staff will work with the citizens on the application process.

Mayor Yohey stated he has seen firsthand the willingness of staff for work with the citizens. His neighbor had an issue, they discussed the situation with Mr. Khokhar and they were able to come to an agreement. He suggested a possible item for the next newsletter could be explaining permits, applications, fees, fines, etc.

Mr. Khokhar advised Council his first priority is customer service.

ACTION ITEMS

a. Consider approval of the proposed Council meeting schedule for 2011

Vice-Mayor West stated she did not feel the first option, to move the first meeting of October 2011 to Wednesday, October 5th because Council members and staff who attend the VML Conference may be returning that day and would not have adequate time to prepare for the meeting.

Vice-Mayor West made a motion to adopt the 2011 Council meeting schedule with only 1 meeting in October on the 11th. Council Lady Jurgensen seconded the motion. On the roll call, the vote was unanimous, motion passed.

b. Consider approval of the Website RFP: Ms. Alexander stated the RFP was included in Council's packets for their review. The RFP was written by Ms. Sandlin and reviewed by the website update team which included Ms. Sandlin, Ms. Holtzlander, Ms. Koslicki, Ms. Johnson and herself. The cost of the website redesign will be capped at \$14k and will be paid by line item 10-412-007, Marketing (p.4 of 22).

Mayor Yohey asked if there were any maintenance costs. Ms. Alexander replied there would not be any regular maintenance costs; staff would have the ability to update the website. He asked what the Town currently paid for maintenance. Ms. Holtzlander advised approximately \$75/hour.

(Action Items-b, cont.)

Council Lady Forrester asked if preference could be given to Town businesses. Ms. Caturano advised the Code of Virginia does not allow for that. Council Lady Forrester asked if the judging criteria was available for Council review. She also asked if the Town was required to advertise outside of the area. Ms. Alexander stated staff would advertise in specific publications if directed by Council; however she feels that may be a disservice to the website. She stated the selection process and proposal evaluation and review can be found on p. 14 of the RFP. Council Lady Forrester asked how the submissions will be scored. Ms. Alexander stated there was not a point system established at this time, but some of the categories would be subjective. Council Lady Forrester asked that a rubric be developed prior to issuing the RFP. Ms. Alexander asked if Council would allow staff to issue the RFP and create the rubric (selection criteria/points) prior to reviewing any proposals.

Councilman Foreman asked what happens if the project goes over \$14k, will staff come back to Council asking for more money. Ms. Alexander advised, Council will approve the winner and the contract would list the dollar amount.

Vice-Mayor West stated she looked at the websites of the other localities listed in the RFP and thinks they are great.

Council Lady Forrester asked staff not be bring anything to Council that will be over the stated budget amount (of \$14k.)

Vice-Mayor West made a motion to approve the Website RFP with a second by Council Lady Barr. On the roll call, the vote was unanimous, motion passed.

- c. Consider a Resolution in Opposition of Amendments to Section 58.1-3832 of the Code of Virginia in Regards to Cigarette Tax Enforcement:** Ms. Alexander stated the proposed resolution is asking the Governor and the General Assembly to oppose any changes to Section 58.1-3832 of the Virginia Code that would place further limitations on the administration and enforcement of the Cigarette Tax.

Council Lady Jurgensen made a motion to adopt the Resolution in Opposition of Amendments to Section 58.1-3832 of the Code of Virginia in Regards to Cigarette Tax Enforcement with a second by Council Lady Forrester. On the roll call, the vote was unanimous, motion passed.

- d. Consider an Amendment to Town Code Section 2-83.b(5), Town Manager Duties (language submitted by Mayor Yohey)**
e. Consider an Amendment to Town Code Section 2-83.b(10), Town Manager Duties (language submitted by Mayor Yohey)
f. Consider an Amendment to Town Code Section 2-83.b(17), Town Manager Duties (language submitted by Mayor Yohey)

Mayor Yohey reviewed his memo regarding the proposed ordinance amendments with Council.

(Action Items-d thru f, cont.)

Council Lady Forrester stated 2 other proposed changes (in addition to the Mayor's language) pertaining to Section 2-83.b(5) were voted on at the last meeting and they both failed by the Mayor's vote. She stated he could have just voted for one of the other two submissions. Mayor Yohey stated he is trying to "get it right" by combining all the proposed language.

Vice-Mayor West stated she is extremely frustrated that the Mayor would submit a proposed ordinance amendment again because he did not like the outcome. She asked why subsection 10 was included. Ms. Caturano advised as proposed, subsection 17 (if passed) would conflict with the current language of subsection 10. She assumes that is why the proposed changes

were brought before Council. Ms. Caturano stated she does not see a legal problem with the proposed language of subsection 10 or 17, but she foresees a problem with subsection 5. She does not want to have to constantly decide if something was "fully discussed."

Council Lady Barr expressed her disbelief to see these same code sections on the agenda again. She asked the Mayor what his intentions would be if the changes are not passed today, would he ever stop or will he continue to resubmit until something passes.

Mayor Yohey replied no, he would not continue to resubmit proposed changes. He stated again he is trying to "get it right" by combining all the proposed language. (Discussion continued back and forth between Mayor Yohey and Council Lady Barr.) Mayor Yohey withdrew all of the proposed ordinance amendments he submitted on the agenda. (Action items d-f)

- g. First reading of proposed Amendment to Town Code Section 70-676, ARB:** (proposed changes were read into record by Ms. Alexander.) Ms. Alexander stated the proposed changes would bring the Town's code into compliance with the state code. She recommends Council hold a public hearing at a meeting in January.

Mayor Yohey made a motion to move forward with the proposed amendment to Town Code Section 70-676 and schedule a public hearing for the first meeting in January. The motion was seconded by Council Lady Forrester. On the roll call, the vote was unanimous, motion passed.

DISCUSSION ITEMS

- a. Build America Bonds:** Mr. Mulroy with VML/VACO, stated the Bond Resolution adopted by Council included a set of parameters that needed to be met in to move forward with the bond. Right now, the parameters are not being met due to the changing market and increased interest rates. There were 2 participants in the bond group (including Dumfries) who had 30 year loan terms that are having an issue with the current interest rates being offered. He recommends to Council adding 1% point to the existing parameters in order to meet the current market conditions. Last Wednesday, he stated the rate was 5.1%, which is still a great rate, but it is not as good as the rates a month ago. He recommends Council adjust the resolution to reflect a smaller loan amount and in a higher interest rate. The overall payment would remain the same.

(Discussion Items-a, cont.)

Council Lady Forrester expressed she is not comfortable with unknown factors. She asked if the Town agrees with the \$3.2M, what happens if more money is needed at the end to finish the project(s). She is not in support on anything that could lead to increasing the tax rate. Ms. Alexander explained the scope of work would need to be adjusted in order to meet the lowered bond amount. She would search for possible grants that would add additional funds. The Tripoli Heights project will not change. Council Lady Forrester stated if the Town Manager cannot provide an estimate or details for the smaller scope of work, she cannot support the changed as there are too many unknowns.

Council Lady Forrester asked if it were known which program the Town would get, the BAB or the tax-exempt program. Mr. Mr. Mulroy advised the program will be determined by the market at the time of issuance. Whichever program is best for the Town at that time will be selected.

Councilman Toney wanted to make sure the tax rate would not change with the changes in the resolution. Ms. Alexander advised the tax rate would not change.

Vice-Mayor West stated in order to move the Town forward, debt has to be incurred. She would be in favor of changing the resolution.

Council Lady Forrester understands debt may be necessary to move the Town forward, but not if the Town cannot afford the debt.

Council Lady Jurgensen asked how much money had been spent thus far on the Tripoli Heights project. Ms. Alexander advised Mr. Tkac is representing the Town at a PWC hearing and she will get with him on the answer. Council Lady Jurgensen asked how for the status project. Ms. Alexander stated once the bond has been approved, Mr. Tkac will be ready to issue a RFP.

Vice-Mayor West commented “money follows good ideas.”

Mayor Yohey stated there would be no interest for the first 2 years of the loan. Ms. Alexander stated that is correct. He asked how the underwriters knew if they were getting the best rate. Mr. Mulroy explained that rate changes daily, but the underwriters are out in the market speaking to investors to ensure they get the best rates.

Councilman Toney asked if the rate is fixed once the bond closed. Mr. Mulroy answered yes. Ms. Alexander added the rate would be fixed for 30 years.

Councilman Foreman asked what the annual payment amount would be. He asked, if taxes will not be raised to cover the cost, where will the funds come from to make the payments. Ms. Alexander advised the annual payment amount would be approximately \$200k. Funds would come from a few areas. \$30k would come from the DPD budget, \$50k have been committed from the SWM fees, \$62k would come from personnel and the remainder would come “Unbudgeted,” which would still leave approximately \$30k to be transferred to an interest earning account.

(Discussion Items-a, cont.)

Councilman Toney asked if money from personnel would include RIF. Ms. Alexander explained the personnel funds would be from the elimination of an unfilled position; she is not suggesting a RIF.

Mayor Yohey stated, if the bond is issued, the Town’s annual debt service would approximately be double. Ms. Alexander advised that is correct.

Council Lady Jurgensen made a motion to adopt the proposed resolution amending the prior resolution entitled “Resolution Authorizing the Issuance, Sale and Award of General Obligation Bonds in a Principle Amount not to exceed \$3,400,000, and Providing for the Form, Details and Payment Thereof,” adopted October 12, 2010. Vice-Mayor West seconded the motion. Ayes: Barr, Foreman, Jurgensen, Toney, West, Yohey; Nays: Forrester. Motion passed, 6-1.

CLOSED SESSION

Vice-Mayor West made a motion to enter into closed session under Virginia Code § 2.2-3711A (7) Litigation to discuss Fairfax Street. Council Lady Forrester seconded the motion. On roll call the vote was unanimous, motion carried. Council entered closed session at 9:50 PM.

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

The Council returned to open session at 10:07 PM.

ADJOURN

Councilman Toney made a motion to adjourn with a second by Council Lady Jurgensen. All Ayes. The meeting adjourned at 10:08 PM.

Minutes submitted by

Approved by

Catherine H. Koslicki
Town Clerk

Fred E. Yohey, Jr.
Mayor