

AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL, HELD ON OCTOBER 8 2014, AT 7:00 P.M., IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA:

THERE WERE PRESENT: Mayor Gerald Foreman
Charles Brewer
Helen Reynolds
Gwen Washington
Derrick R. Wood
Daniel Taber, Town Manager
Olaun Simmons, Town Attorney

THERE WERE ABSENT: Kristin Forrester
Vice Mayor Willie Toney

IN RE: CALL TO ORDER AND ROLL CALL

Mayor Foreman called the meeting to order. Dawn Hobgood, Town Clerk, took roll call.

IN RE: MOMENT OF SILENT PRAYER AND REFLECTION AND PLEDGE OF ALLEGIANCE

There was a moment of silent prayer and reflection, then all in attendance recited the Pledge of Allegiance to the Flag of the United States.

IN RE: APPROVAL OF MINUTES - MAY 7, 2013

Mayor Foreman moved, seconded by Ms. Reynolds, to approve the May 7, 2013 minutes as presented. The motion carried by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

IN RE: ADOPTION OF THE AGENDA

Mr. Taber requested adding a closed session item dealing with personnel matters.

Mr. Foreman moved, seconded by Ms. Reynolds, to adopt the agenda as amended. The motion carried by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

IN RE: APPROVAL OF CONSENT AGENDA

Mayor Foreman requested pulling the resolution authorizing the Town Manager enter into a contract for auxiliary Town Hall services and the resolution authorizing the Town Manager advertise a public hearing for an appeal of the Architectural Review Board's decision for the Town Hall sign.

Mr. Foreman moved, seconded by Ms. Reynolds, to adopt the consent agenda as amended. The motion carried and the following resolutions and ordinances were adopted by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

**ORDINANCE TO AMEND THE CODE OF THE TOWN OF
DUMFRIES, VIRGINIA, AS AMENDED, BY AMENDING CHAPTER
70 - ZONING, ARTICLE III. DISTRICTS, DIVISION 9. FLOODPLAIN
DISTRICTS FP-1**

WHEREAS, the Town of Dumfries participates in the National Flood Insurance Program (NFIP); and

WHEREAS, a community that chooses to join the NFIP is required to adopt and enforce minimum floodplain management standards for participation; and

WHEREAS, in return, the Federal Government makes flood insurance available for almost every building and its contents within the community; and

WHEREAS, in developing their floodplain management ordinances, participating communities must meet or exceed the regulatory standards issued by FEMA; and

WHEREAS, FEMA is in the process of finalizing updated Digital Flood Insurance Rate Maps.

NOW, THEREFORE BE IT ORDAINED by the Council of the Town of Dumfries on this the 8th day of October, 2014, that the Code of Ordinances, Town of Dumfries, Virginia, as amended, Chapter 70 - Zoning, Article III. Districts, Division 9. Floodplain Districts FP-1, is further amended as follows:

**DIVISION 9.
FLOODPLAIN DISTRICTS FP-1**

Sec. 70-346. ~~—————Intent.~~ Statutory authorization and purpose.

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280.

The purpose of these districts is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (a) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- (b) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- (c) Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or ~~floodproofed~~ flood-proofed against flooding and flood damage—and,
- (d) Protecting individuals from buying ~~lands~~ land and structures which are unsuited for intended purposes because of flood hazards.

~~—————(Code 1990, § 15-251; Ord. of 8-1-1989(2))~~

Sec. 70-347. Applicability.

These provisions shall apply to all lands within the jurisdiction of the town and identified as ~~being in the 100-year floodplain by the Federal Insurance Administration.~~ areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the town by FEMA.

~~(Code 1990, § 15-252; Ord. of 8-1-1989(2), § 9.1)~~

Sec. 70-348. Compliance; and liability.

- (a) ~~After August 1, 1989, no~~ No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ~~division~~ ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ~~division~~ ordinance.
- (b) The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ~~division~~ ordinance does not imply that ~~areas~~ districts outside the floodplain districts, ~~or that~~ land uses permitted within such districts will be free from flooding or flood damages.
- (c) This ~~division~~ ordinance shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this ~~division~~ ordinance or any administrative decision lawfully made ~~hereunder~~ thereunder.

~~(Code 1990, § 15-253; Ord. of 8-1-1989(2), § 9.2)~~

Sec. 70-349. Records.

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.

Sec. 70-349 350. Abrogation and greater restrictions.

This ~~division~~ ordinance supersedes any ordinance currently in effect in ~~flood-prone areas~~ flood-prone districts. ~~However, any underlying ordinances~~ Any ordinance, however, shall remain in full force and effect to the extent that ~~their~~ its provisions are more restrictive ~~than this division.~~

~~(Code 1990, § 15-254; Ord. of 8-1-1989(2), § 9.3)~~

Sec. 70-351. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Sec. 70-350 352. Penalties Penalty for Violations.

- (a) Any person who fails to comply with any of the requirements or provisions of this ~~division~~ article or directions of the zoning officer or any other authorized employee of the town shall be guilty of a class 1 misdemeanor and subject to the penalties therefore.

- (b) The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of the town are addressed in Section 70-2.1 of the Zoning Ordinance.
- (c) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ~~division~~ article. The imposition of a fine or penalty for any violation of, or noncompliance with, this ~~division~~ article shall not excuse the violation or noncompliance ~~to~~ or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this ~~division~~ article may be declared by the town council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this division.

~~(Code 1990, § 15-256; Ord. of 8-1-1989(2), § 9.5)~~

Sec. 70-353. Designation of the Floodplain Administrator.

The Floodplain Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (a) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the town chief executive officer.
- (b) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (c) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

Sec. 70-354. Duties and Responsibilities of the Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (a) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- (b) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (c) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (d) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway

- obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- (e) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.
 - (f) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
 - (g) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
 - (h) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
 - (i) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
 - (j) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the town, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
 - (k) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
 - (2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
 - (l) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

- (m) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (n) Administer the requirements related to proposed work on existing buildings:
 - (1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - (2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (o) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (p) Notify the Federal Emergency Management Agency when the corporate boundaries of the town have been modified and:
 - (1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - (2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- (q) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (r) It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are

known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Sec. 70-355. Use and interpretation of FIRMs.

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- (a) Where field surveyed topography indicates that adjacent ground elevations:
 - (1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - (2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- (b) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- (c) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (d) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- (e) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - (1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to 70-360.(a)(10)(c) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by

FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Sec. 70-356. Jurisdictional boundary changes.

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Sec. 70-357. District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Town where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

Sec. 70-358. Interpretation of district boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Sec. 70-359. Submitting technical data.

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the

Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

Sec. 70-360. Letters of map revision

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Examples:

- (a) Any development that causes a rise in the base flood elevations within the floodway.
- (b) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- (c) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a)(12)*

~~Sec. 70-351 — Establishment of zoning districts.~~

~~(a) *Description of districts.*~~

~~(1) *Basis of districts.* The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the flood insurance study for the town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated November 1979, as amended.~~

~~a. The floodway district is delineated, for purposes of this division, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in Table 3 of the above-referenced flood insurance study and shown on the accompanying flood boundary and floodway map or flood insurance rate map.~~

~~b. The flood fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying flood boundary and floodway map or flood insurance rate map.~~

~~c. The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as zone A on the maps accompanying the flood insurance study. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the United States Army Corps of Engineers Floodplain Information Reports, United States Geological Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods~~

~~used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town.~~

Sec. 70-361. Establishment of zoning districts.

- (a) Description of special flood hazard districts
 - (1) Basis of districts. The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for Prince William County, Virginia and Incorporated Areas prepared by the Federal Emergency Management Agency, dated TBD, and any subsequent revisions or amendments thereto.

The town may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the town offices.

- a. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 9. of the above-referenced FIS and shown on the accompanying FIRM. The following provisions shall apply within the Floodway District of an AE zone:
 - i. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.
Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the town's endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If 70-360(a)(1)a(i) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 70-362 *et.seq.*

- ii. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
- b. The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE or AH zone:
Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the town. This requirement applies along rivers, streams, and other watercourses. The requirement does not apply along bays, estuaries, and the ocean coast.
Development activities in Zones A1-30 and AE or AH, on the town FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the town's endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.
- c. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain

the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies such as hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated one foot or more above the base flood level.

During the permitting process, the Floodplain Administrator shall obtain information regarding:

- i. The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- ii. Whether the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

- d. The **AO Zone** on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:
 - i. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
 - ii. All new construction and substantial improvements of non-residential structures shall:
 - have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including

basement, shall be elevated at least two feet above the highest adjacent grade; or,

- together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- iii. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
- e. The **Coastal A Zone** shall be those areas, as defined by the VA USBC, that are subject to wave heights between 1.5 feet and 3 feet, and identified on the FIRM as areas of **Limits of Moderate Wave Action (LiMWA)**. For these areas, the following provisions shall apply:

Buildings and structures within this zone shall have the lowest floor elevated to or above the base flood elevation plus one foot of freeboard, and must comply with the provisions in Section 70-360(a)(1)b., Section 70-363 and Section 70-364.

- f. The **VE or V Zones** on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast. For these areas, the following provisions shall apply [44 CFR 60.3(e)]:
- i. All new construction and substantial improvements in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
- The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to at least one foot above the base flood level; and,
 - The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).

- ii. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Section 70-360(a)(1)f.i.
- iii. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Management Administrator shall maintain a record of all such information.
- iv. All new construction shall be located landward of the reach of mean high tide.
- v. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any give year.
- vi. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

- vii. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- viii. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

~~(2) *Overlay concept.*~~

~~a. The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.~~

~~b. Any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.~~

~~c. In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain inapplicable.~~

~~(b) *Official zoning map.* The boundaries of the floodplain districts are established as shown on the flood boundary and floodway map and/or flood insurance rate map, which is declared to be a part of this division and which shall be kept on file at the town offices.~~

~~(c) *District boundary changes.* The delineation of any of the floodplain districts may be revised by the town council where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency, or an individual documents the need for possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.~~

~~(d) *Interpretation of district boundaries.* Initial interpretations of the boundaries of the floodplain districts shall be made by the zoning officer. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.~~

~~(Code 1990, § 15-257; Ord. of 8-1-1989(2), § 9.6)~~

~~**Editors Note:** The flood insurance study and the accompanying map referred to in subsection (a) of this section are not set out herein but can be found on file in with the town's records.~~

Sec. 70-362. Overlay concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Sec. 70-352. District provisions.

~~(a) Generally. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, such as the Virginia Uniform State-wide Building Code and the town's subdivision regulations. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit from the United States Corps of Engineers, the Virginia Marine Resources Commission, the Tennessee Valley Authority (southwest Virginia jurisdictions) and certification from the Virginia State Water Control Board may be necessary (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all affected adjacent jurisdictions, the division of soil and water conservation (state department of conservation and recreation), and the Federal Insurance Administration. All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:~~

- ~~(1) For structures that have been elevated, the elevation of the lowest floor (including basement.~~
- ~~(2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.~~
- ~~(3) The elevation of the 100-year flood.~~

~~All mobile/manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform State-wide Building Code.~~

~~(b) Floodway district. In the floodway district, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above. The placement of any mobile/manufactured home, except in an existing manufactured home park or subdivision, within the floodway district is specifically prohibited.~~

~~(c) Permitted uses. In the floodway district, the following uses and activities are permitted; provided that, they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:~~

- ~~(1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.~~
- ~~(2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.~~
- ~~(3) Accessory residential uses, such as yard areas, gardens, play areas, and previous loading areas.~~
- ~~(4) Accessory industrial and commercial use, such as yard areas, previous parking and loading areas, airport landing strips, etc.~~

~~(d) *Floodways.* Encroachment on floodplains, such as artificial fill, reduces the flood-carrying capacity and increases flood heights, thus increasing flood hazards in areas beyond the encroachment itself. One aspect of floodplain management involves balancing the economic gain from floodplain development against the resulting increase in flood hazard. For purposes of the flood insurance program, the concept of a floodway is used as a tool to assist local communities in this aspect of floodplain management. Under this concept, the area of the 100-year flood is divided into a floodway and a floodway fringe. A floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment in order that the 100-year flood can be carried without substantial increase in flood heights. As minimum standards, the Federal Insurance Administration limits such increases in 100-year flood heights to one foot, provided that hazardous velocities are not produced. The floodway in this report is presented to local agencies as a minimum standard that can be adopted or that can be used as a basis for additional studies. The floodway presented in this study was computed on the basis of equal conveyance reduction from each side of the floodplain. The floodway boundaries were determined at each cross-section; between cross-sections, the boundaries were interpolated, as were the flood boundaries. Floodway data for the study reach of the streams studied in detail in the town are given in table 3.~~

~~(e) *Flood fringe and approximated floodplain districts.* In the flood fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying districts; provided that, all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform State-wide Building Code and all other applicable codes and ordinances. Within the approximated floodplain district, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one foot at any one point. The engineering principle, equal reduction of conveyance, shall be used to make the determination of increased flood heights. Within the floodway area delineated by the applicant, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above.~~

~~(f) *Design criteria for utilities and facilities.*~~

~~(1) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plant (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.~~

~~(2) *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.~~

~~(3) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on site waste disposal sites. The town council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.~~

- ~~(4) *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in floodprone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.~~
- ~~(5) *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.~~

~~(Code 1990, § 15-258; Ord. of 8-1-1989(2), § 9.7)~~

~~**Editors Note:** Table 3, referred to in subsection (d) of this section is not set out herein but can be found on file with the town's records.~~

Sec. 70-363. District provisions.

(a) Permit and Application Requirements

- (1) All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the town Subdivision Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- (2) Site Plans and Permit Applications
All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
- a. The elevation of the Base Flood at the site.
 - b. The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
 - c. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
 - d. Topographic information showing existing and proposed ground elevations.

Sec. 70-364. General standards.

The following provisions shall apply to all permits:

- (a) New construction and substantial improvements shall be according to Section 70-

360(a) of this ordinance and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.

- (b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions (a) – (h) above, in all special flood hazard areas, the additional provisions shall apply:

- (i) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
- (j) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Sec. 70-365. Elevation and construction standards.

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with 70-360(a)(1)c., the following provisions shall apply:

(a) Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to one foot or more above the base flood level. See Section 70-360(a)(1)(e) and Section 70-360(a)(1)(f) for requirements in the Coastal A and VE zones.

(b) Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to one foot or more above the base flood level. See Section 70-360(a)(1)(e) and Section 70-360(a)(1)(f) for requirements in the Coastal A and VE zones. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood-proofed, shall be maintained by Floodplain Administrator.

(c) Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- (1) not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
- (2) be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (3) include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

- b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- (d) Standards for Manufactured Homes and Recreational Vehicles
- (1) All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Section 70-363 and Section 70-364.
 - (2) All recreational vehicles placed on sites must either
 - a. be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - b. meet all the requirements for manufactured homes in Section 70-364 (d)(1).

Sec. 70-366. Standards for subdivision proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- (d) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those

contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Sec. 70-367. Existing structures in floodplain areas

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- (a) Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- (b) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.
- (c) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

~~Sec. 70-353. Variances; factors to be considered.~~

- ~~(a) In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:~~
- ~~(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within the floodway district that will cause any increase in flood levels during the 100 year flood.~~
 - ~~(2) The danger that materials may be swept onto other lands or downstream to the injury of others.~~
 - ~~(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.~~
 - ~~(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.~~
 - ~~(5) The importance of the services provided by the proposed facility to the community.~~
 - ~~(6) The requirements of the facility for a waterfront location.~~
 - ~~(7) The availability of alternative locations not subject to flooding for the proposed use.~~
 - ~~(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.~~
 - ~~(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.~~
 - ~~(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.~~

- ~~———— (11) — The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.~~
- ~~———— (12) — Such other factors which are relevant to the purposes of this division.~~
- ~~———— (b) — The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.~~
- ~~———— (c) — Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, or extraordinary public expense, and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.~~
- ~~———— (d) — Variances shall be issued only after the board of zoning appeals has determined that the variances will be the minimum required to provide relief from any hardship to the applicant.~~
- ~~———— (e) — The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100 year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.~~
- ~~———— (f) — A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the federal insurance administrator. (Code 1990, § 15-259; Ord. of 8-1-1989(2), § 9.8; Ord. of 1-3-1995)~~

Sec. 70-354. Nonconforming structures or uses.

A structure or use of a structure or premises which lawfully existed before August 1, 1989, but which is not in conformity with this division, may be continued subject to the following conditions:

- ~~———— (1) — Existing structures and/or uses located in the floodway district shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).~~
- ~~———— (2) — Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount in excess of 65 percent of the assessed value of all improvements on the lot shall conform to the elevation requirements of section 70-355.~~
- ~~———— (3) — Uses or adjuncts thereof which are, or become, nuisances shall not be permitted to continue.~~

~~(Code 1990, § 15-260; Ord. of 8-1-1989(2), § 9.9)~~

Sec. 70-355. Additional provisions applicable in floodplain districts.

- ~~———— (a) — No development is permitted in any floodplain district until the zoning administrator determines that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.~~
- ~~———— (b) — No development is permitted in any floodplain district until the zoning administrator determines that proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodprone area, all new construction and substantial improvements shall be:

 - ~~———— (1) — Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;~~
 - ~~———— (2) — Constructed with materials resistant to flood damage;~~
 - ~~———— (3) — Constructed by methods and practices that minimize flood damages; and~~~~

- ~~(4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~
- ~~(c) Substantial improvements are defined, for purposes of this section, as modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use at a cost in excess of 65 percent of the assessed value of the improvements on the lot.~~
- ~~(d) No development is permitted in any floodplain district unless:~~
 - ~~(1) New and replacement water supply systems are designed to minimize or eliminate infiltration of floodwaters into the systems.~~
 - ~~(2) New and replacement sanitary sewage systems are designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and on site waste disposal systems are located to avoid impairment to them or contamination from them during flooding.~~
 - ~~(3) Any new subdivision proposal or other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data.~~
- ~~(e) The base flood level is defined, for the purposes of this section, as follows:~~
 - ~~(1) Zones A1 A30. The 100 year flood elevation shown on the Dumfries Flood Insurance Rate Map (FIRM) or profiled in the Dumfries Flood Insurance Study (FIS).~~
 - ~~(2) Zone A0. The elevation of the highest adjacent grade plus the depth number shown on the FIRM (at least two feet if no depth number is specified).~~
 - ~~(3) Zone A. A reasonable elevation determined by the zoning administrator based on topography and extrapolation of the 100 year flood elevations shown on the FIRM or FIS.~~
- ~~(f) After construction, the owner shall provide the zoning administrator the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures and, if applicable, the elevation to which the structure was floodproofed.~~
- ~~(g) The administrator shall notify, in riverine situations, adjacent communities and the National Flood Insurance Program (NFIP) State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the NFIP Administrator. In any case, the flood carrying capacity within the altered or relocated portion of any watercourse must be maintained.~~
- ~~(h) All new construction and substantial improvements of residential structures within floodplain districts shall have the lowest floor (including basement) elevated to or above the base flood level.~~
- ~~(i) All new construction and substantial improvements of nonresidential structures within floodplain districts shall:~~
 - ~~(1) Have the lowest floor (including basement) elevated to or above the base flood level; or~~
 - ~~(2) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.~~
- ~~(j) Where a nonresidential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and~~

~~methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of 44 CFR 60.3(c)(3)(ii) or (c)(8)(ii).~~

~~(k) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:~~

~~(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~

~~(2) The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~

~~(l) Every structure constructed within the floodplain district shall have adequate drainage paths around it on slopes, to guide floodwaters around and away from it.~~

~~(m) Recreational vehicles placed on sites within a floodplain district must either:~~

~~(1) Be on the site for fewer than 180 consecutive days out of the previous 360 days;~~

~~(2) Be fully licensed and ready for highway use; or~~

~~(3) Meet the permit requirements of 44 CFR 60.3(b)(1) and the elevation and anchoring requirements for manufactured homes in section 70-352(a) of this Code.~~

~~A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.~~

~~(Code 1990, § 15-261; Ord. of 1-3-1995)~~

~~**Secs. 70-356-70-380. Reserved.**~~

Sec. 70-368. Variances: factors to be considered

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- (b) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (e) The importance of the services provided by the proposed facility to the community.
- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (j) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (l) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (m) Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Sec. 70-369. Glossary.

- (a) *Appurtenant or accessory structure* means accessory structures not to exceed 200 sq. ft.
- (b) *Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.
- (c) *Base flood elevation* means the Federal Emergency Management Agency designated one percent annual chance water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the town's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is one hundred (100) year flood or 1per cent annual chance flood.
- (d) *Basement* means any area of the building having its floor sub-grade below ground level on all sides.
- (e) *Board of Zoning Appeals* means the board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- (f) *Coastal A Zone* means flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.
- (g) *Development* means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (h) *Elevated building* means a non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls,

pilings, or columns (posts and piers).

- (i) *Encroachment* means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- (j) *Existing construction* means structures for which the “start of construction” commenced before May 15 1980. “Existing construction” may also be referred to as “existing structures.”
- (k) *Flood or flooding* means:
 - (1) A general or temporary condition of partial or complete inundation of normally dry land areas from
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source; or
 - c. mudflows which are proximately caused by flooding as defined in paragraph (1) b. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 - (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1) a. of this definition.
- (l) *Flood Insurance Rate Map (FIRM)* means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- (m) *Flood Insurance Study (FIS)* means a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- (n) *Floodplain or flood-prone area* means any land area susceptible to being inundated by water from any source.
- (o) *Flood proofing* means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to

- real estate or improved real property, water and sanitary facilities, structures and their contents.
- (p) *Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (q) *Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.
- (r) *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (s) *Historic structure* means any structure that is
- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - a. by an approved state program as determined by the Secretary of the Interior; or,
 - b. directly by the Secretary of the Interior in states without approved programs.
- (t) *Hydrologic and Hydraulic Engineering Analysis* means analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.
- (u) *Letters of Map Change (LOMC)* means an official FEMA determination, by letter,

that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a Land as defined by meets and bounds or *structure* is not located in a *special flood hazard area*.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood elevations*, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the *community's* floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*.

- (v) *Lowest adjacent grade* means the lowest natural elevation of the ground surface next to the walls of a structure.
- (w) *Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- (x) *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- (y) *Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (z) *New construction* - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after May 15, 1980, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements

to such structures.

- (aa) *Post-FIRM structure* means a structure for which construction or substantial improvement occurred after May 15, 1980.
- (bb) *Pre-FIRM structure* means a structure for which construction or substantial improvement occurred on or before May 15, 1980.
- (cc) *Recreational vehicle* means vehicle which is
 - (1) built on a single chassis;
 - (2) 400 square feet or less when measured at the largest horizontal projection;
 - (3) designed to be self-propelled or permanently towable by a light duty truck; and,
 - (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- (dd) *Repetitive Loss Structure* means a building covered by a contract for flood insurance that has incurred flood-related damages on two occasions, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each flood event; and at the time of the second incidence of flood related damage, the contract for flood insurance contains increased cost of compliance coverage.
- (ee) *Severe repetitive loss structure* means a structure that
 - (1) is covered under a contract for flood insurance made available under the NFIP; and
 - (2) has incurred flood related damage
 - a. for which four or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
 - b. for which at least two separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.
- (ff) *Shallow flooding area* means a special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (gg) *Special flood hazard area* means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in

Section 70-361 of this ordinance.

- (hh) *Start of construction* - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (ii) *Structure* means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- (jj) *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (kk) *Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:
- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (2) any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.
 - (3) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer.

Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

- (ll) *Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.
- (mm) *Watercourse* means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

~~Secs. 70-356--70-380. Reserved.~~

Secs. 70-370--70-380. Reserved

AN UNCODIFIED ORDINANCE MAKING ADDITIONAL APPROPRIATIONS FOR FY 2014-2015

WHEREAS, on June 3, 2014, the Town Council adopted the FY 2015 Budget, effective beginning July 1, 2014 and ending June 30, 2015; and

WHEREAS, portions of the FY--2014, monies remained unspent as of June 30, 2014 and were transferred to the General Fund; and

WHEREAS, funds were provided by the State of Virginia for local Street Maintenance within the incorporated limits of the Town of Dumfries in the amount of \$155,234.20; and

WHEREAS, a portion of these funds were designated in FY--2014 by purchase orders, PW--049, PW--050, and PW--051, for a project known as the Cameron Street Improvement Project; and

WHEREAS, VDOT's Urban and Maintenance Program (Urban Manual), Policies and Guidelines, Article II.H.2. Reimbursement/Carry Forward states, in part "Street payments are intended to be spent in the year the payments are made. However, any remaining balances will automatically be carried forward for use in the subsequent year."; and

WHEREAS, the Town Manager requests funds be moved from the General Fund and be appropriated in the FY-15 Budget in the amount of \$155,234.20 to line item 10-441-1400 (Maintenance Contracts) in the Street Maintenance Budget; and

WHEREAS, a grant was awarded from the Office of the Attorney General in the amount of \$9,970.50; and

WHEREAS, the grant does not run on a fiscal year and allows for expenditures to be made over a 24 month period upon receipt; and

WHEREAS, the grant funds were received on May 2014; and

WHEREAS, the expenditures for FY-14 totaled \$2,999.57; and

WHEREAS, the Town Manager requests funds be moved from the General Fund and be appropriated in the FY-15 Budget in the amount of \$6,970.93 to line item 10-431-0207.

NOW, THEREFORE, BE IT ORDAINED that the Town Council of the Town of Dumfries this 8th day of October, 2014, does hereby authorize the Town Manager to make the appropriations from the General Fund made for the fiscal year beginning July 1, 2014 for the functions or purposes to the FY-15 Budget as presented.

**RESOLUTION TO APPROVE GAMBINO PROPERTY
BUILDING ADDITION SITE PLAN**

WHEREAS, a site plan has been submitted for a portion of the property known as GPIN 8289-14-3091 for a restaurant establishment; and

WHEREAS, the site plan was reviewed by Town staff for conformance with all applicable federal, state, and local codes; and

WHEREAS, the Town of Dumfries Planning Commission reviewed the site plan at their August 11, 2014 meeting and recommended that Town Council approve the site plan; and

WHEREAS, the Dumfries Town Council finds that the site plan is in conformance with the Town of Dumfries Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED by the Council of the Town of Dumfries on this the 8th day of October, 2014 that the Gambino Property Building Addition site plan dated 9-4-14 for Project Number 13081 is hereby approved.

**RESOLUTION TO AUTHORIZE THE TOWN MANAGER ADVERTISE A PUBLIC
HEARING FOR AN AMENDMENT TO CHAPTER 18 BY ADDING SECTION 18-77
(A)-(G) VENDORS ON PUBLIC PROPERTY**

WHEREAS, Town Council (the "Council") wishes to establish rules and regulations that govern individuals and corporations who solicit, sale, or otherwise transact business involving the exchange of goods and services on public property located within the Town; and

WHEREAS, the Council has been reviewing, studying and deliberating for the past several months; and

WHEREAS, the Town Council most recently reviewed the ordinance amendment at the September 23, 2014 work session where Town Council directed staff to move forward with scheduling a public hearing on the amendment.

NOW, THEREFORE, BE IT RESOLVED by Town Council that the Town Manager is authorized to advertise for a public hearing to be held on November 5, 2014 to consider the zoning ordinance amendment to Town Code Section 18 by adding 18-77 (a)-(g) Vendors on Public Property.

**POLICY REGARDING OPENING INVOCATION AT THE BEGINNING OF MEETINGS OF
THE TOWN COUNCIL FOR THE TOWN OF DUMFRIES**

WHEREAS, the Town Council of the Town of Dumfries desires to be open and respectful and create an environment that is open and welcoming of all visitors, residents and business owners; and

WHEREAS, the Town Council of the Town of Dumfries does not desire to have any effect of affiliating the government of the Town of Dumfries with any particular faith, belief or creed nor express the Town Council's preference for or against any faith or religious organization; and

WHEREAS, the Town Council wishes to solemnize the proceedings of the Dumfries Town Council meetings; and

WHEREAS, the Town Council of the Town of Dumfries acknowledges and expresses its respect for the diversity of religious denominations, faiths and creeds represented and practiced among the citizens of the Town of Dumfries; and

WHEREAS, such invocations before deliberative public bodies has been consistently upheld as constitutional by American courts, including the United States Supreme Court; and

WHEREAS, our country's Founders recognized that we possess certain rights that cannot be awarded, surrendered, nor corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator. These rights ultimately ensure the self-government manifest in our deliberative bodies, upon which we desire to invoke divine guidance and blessing; and

WHEREAS, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court validated the Nebraska Legislature's practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, "The opening of sessions of legislative and other deliberative bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has co-existed with the principles of disestablishment and religious freedom. *Id.* at 786; and

WHEREAS, in the *Town of Greece v. Galloway*, 234 S.Ct. 1811, 2014 WL 1757828 (May 5, 2014), the United States Supreme Court validated opening prayers at meetings finding that legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society." *Id.* at *7; and

WHEREAS, the Town Council desires to avail itself of the Supreme Court's recognition that it is constitutionally permissible for a public body to "invoke divine guidance" on its work. *Id.* at 792; and

WHEREAS, the Supreme Court has clarified that opening invocations are "meant to lend gravity to the occasion and reflect values long part of the Nation's heritage and should not show over time "that the invocations denigrate nonbelievers or religious minorities, threaten damnation, or preach conversion." *Town of Greece*, 2014 WL 175828, at *11; and

WHEREAS, in *Town of Greece* the Supreme Court rejected a challenge based on the religious content of the prayers and cautioned against government officials acting as "supervisors and censors of religious speech" by requiring that prayers be "generic" or "non-sectarian," noting that "[t]he law and the Court could not...require ministers to set aside their nuanced and deeply personal beliefs for vague and artificial

ones.” *Id* at *10, *11. Further, the Court stated: “Once it invites prayer into the public sphere, government must permit a prayer giver to address his or her own God or gods as conscience dictates.” *Id.* at *11; and

WHEREAS, this Town Council is not establishing a policy that defines the constitutional limits for permissible public invocations; rather this Town Council intends to adopt guidelines that are consistent with the guidance provided by several courts that have considered the validity of public invocations; and

WHEREAS, numerous courts have approved an invocation practice that incorporates a neutral system to invite religious leaders from the local community and/or volunteers to provide and invocation at the beginning of the public meetings; and

WHEREAS, the Town Council intends to adopt a policy that will not show a purposeful preference of one religious view over another by not permitting the faith or the person offering the invocation to be considered when extending an invitation or scheduling participation; and

WHEREAS, the Town Council believes that clergy that serve the local community are suited through training, tradition and public service to petition for divine guidance upon the deliberations of the Town Council, and to accomplish the Town Council’s objective to solemnize public occasions, express confidence in the future, and to encourage the recognition of what is worthy of appreciation in society; and

WHEREAS, the Town Council accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United States and the Commonwealth of Virginia Constitution and statutes.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Dumfries, Virginia, that the Town Council hereby adopts the following written policy regarding opening invocations at the beginning of its meetings of the Town Council, to wit:

1. It is the intent of the Town Council to allow private citizens to solemnize proceedings of Town Council. It is the policy of the Town Council to allow for an invocation, which may include a prayer, a reflective moment of silence, or short solemnizing message, to be offered at the beginning of its meetings for the benefit of Town Council to accommodate the spiritual needs of the public officials.

2. No member of Town Council or Town employee or any other person in attendance at the meeting shall be required to participate in any prayer that is offered and such decision shall have no impact on the ability of the person to actively participate in the business of the Town Council.

3. No member of Town Council or Town employee shall direct the public to stand, bow, or in any way participate in the prayers; make public note of a person’s presence or absence, attention or inattention during the invocation; or indicate that decision of the Town Council will in any way be influenced by a person’s acquiescence in the prayer opportunity.

4. The invocation shall be voluntarily delivered by an appointed representative of an Assembly List for the Town of Dumfries. To ensure that such person (the “invocation speaker”) is selected from among a wide pool of representatives, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

- a. The Clerk of the Town of Dumfries shall compile and maintain a database (the “Assembly List”) of the assemblies with an established presence in the Town of Dumfries that regularly meet for the primary purpose of sharing a religious perspective (hereinafter referred to as a religious assembly).
- b. The Assembly List shall be compiled by using reasonable efforts including research from the internet to identify all “churches,” “synagogues,” “congregations,” “temples,” “mosques” or other religious assemblies in the Town of Dumfries. All religious assemblies with an established presence in the Town of Dumfries are eligible to be included in the Assembly List, and any such religious assembly can confirm its inclusion by specific written request to the Clerk.
- c. The policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious assembly serving its citizens of the Town of Dumfries. The Assembly List is compiled and used for the purpose of logistics, efficiency, and equal opportunity for all of the community’s religious leaders, who may themselves choose whether to respond to the Town Council’s invitation and participate. Should a question arise to the authenticity of a religious assembly, the Clerk shall refer to criteria used by the Internal Revenue Service in its determination of those organization that would legitimately qualify for I.R.C. Section 501(c)(3) tax exempt status.
- d. The List shall be updated, by reasonable effort of the Clerk, in November of each calendar year. The clerk shall make every effort to ensure that a variety of eligible invocation speakers are scheduled for the Town Council’s meetings.
- e. On or about December 1 of each calendar year thereafter, the Clerk shall mail an invitation addressed to the “religious leader” of each entry on the Assembly List.
- f. The invitation shall be dated at the top of the page, signed by the Clerk at the bottom of the page, and state:

Dear Religious Leader,

The Town Council of the Town of Dumfries makes it a policy to invite members of the clergy or religious representatives in the Town of Dumfries to voluntarily offer an invocation at the beginning of its meetings, for the benefit and blessing of Town Council. As a representative of one of the religious congregations with an established presence in the local community you are eligible to offer this important service at an upcoming meeting of the Council.

If you are willing to assist Town Council in this regard, please send a written reply at your earliest convenience to the Clerk of the Town of Dumfries at the address included on this letterhead. Representatives are scheduled on a first-come, first-served basis. The dates of Town Council’s scheduled meetings for the upcoming year are listed on the following, attached page. If you have a preference among the dates, please state that request in your written reply.

This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. However, please try not to exceed more than five (5) minutes for your presentation. To maintain a spirit of respect and ecumenism, the Town Council requests that the invocation opportunity not be exploited as an effort to convert others, nor to disparage any faith or belief different than that of the invocation speaker.

On behalf of the Town Council for the Town of Dumfries, I thank you in advance for considering this invitation.

Sincerely,

Clerk, Town of Dumfries

- g. The respondents to the invitation shall be scheduled on a first-come, first-served basis to deliver the invocation.
 - h. In the event an eligible representative of an Assembly serving the local community believes that the clerk has not complied with the terms of this policy, the representative has the right to have the matter reviewed by the Town Council.
5. The volunteer prayer-giver shall deliver the prayer or invocation in his or her capacity as a private citizen, and according to the dictates of his or her own conscience.
 6. No guidelines or limitations shall be issued regarding an invocation's content, except that the Council shall request by the language of this policy that no prayer should proselytize or advance any faith, or disparage the religious faith or non-religious views of other, or exceed five (5) minutes in length.
 7. No invocation speaker shall receive compensation of any kind for providing the invocation.
 8. No invocation speaker shall be scheduled to offer a prayer at consecutive meetings of the Council, or at more than six (6) Council meetings in any calendar year.
 9. Neither Town Council nor the Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any prayer to be offered by the scheduled volunteer prayer-giver.
 10. Shortly after the opening gavel that officially begins the meeting and the agenda/business of the public, the Mayor of the Town Council shall introduce the invocation speaker, and invite only those who wish to do so to stand for those observances.
 11. This policy is not intended, and shall not be implemented or construed in any way, to affiliate Town Council with, nor express Town Council's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express Town Council's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of the Town of Dumfries.

12. All resolutions and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this policy shall become effective January 1, 2015.

IN RE: CITIZEN COMMENT PERIOD

There were no citizen comments

IN RE: MAYORS COMMENTS

Mayor Foreman announced the "If I Were Mayor" Essay Contest through the Virginia Municipal League (VML) to all 7th grade students during the 2014-2015 school year. The regional winners will receive one-hundred and fifty dollars and a plaque and one statewide winner will win two-hundred and fifty dollars and a plaque. He asked that it be posted on the Town's website. He asked that the VML website be referenced for the rules. He volunteered to help anyone who wished to submit an essay. The Northern Virginia Regional Commission (NVRC) blanket drive for Syrian Refugees collected over 18,000 blankets in less than 30 days last year. Beginning October 1 thru November 21, blankets will be collected. A business owner is willing to hold them and a trucking company has volunteered to take the donations to the NVRC collection point to get them overseas. He asked that everyone dress warm. Have a safe Halloween and Columbus Day.

IN RE: COUNCIL MEMBER COMMENTS

Mr. Wood wished all a happy October. He mentioned it is Breast Cancer awareness month. There will be a career fair at Stratford University on October 30.

Ms. Reynolds wished everyone a happy October. The Boys and Girls Club will be doing the Thanksgiving baskets, a clothing drive, and a holiday toy drive.

Ms. Washington wished the children in Dumfries a safe and happy Halloween. Please dress children bright. She asked everyone if they could to donate to any of the Breast Cancer causes. She thanked the School Board for following through with the renovations at Dumfries Elementary School. The outside is beautiful. She thanked the Town for completing the Cameron Street drainage project.

IN RE: BOARDS & COMMISSION

A. ARCHITECTURAL REVIEW BOARD (ARB)

There was no report.

B. BOARD OF ZONING APPEALS (BZA)

There was no report.

C. Historic Dumfries

Joann Barron gave the following report.

- The Museum will open Halloween night for ghost walks and will have candy for the trick o' treaters.
- Last fiscal year the Museum had 7,749 visitors and this year the Museum had 13,520 visitors. The Museum logged 4,180 volunteer hours.
- Last weekend a Civil War reenactment was held and the Virginia Forty-Seventh camped out at the park.
- Ghost walks are being held every Friday and Saturday and lock-ins are being held every Saturday.
- Spirited History did another fundraiser and raised \$400.
- A Girl Scout power washed the building and then painted the gazebo.
- A gentleman came out and put 20 hours in working in the garden.
- The American Alliance of Museums membership was renewed and will be applying for the Museum Accreditation program.
- Bill Larson has been volunteering his time helping with cataloging and inventory.
- On November 15, there will be a silent auction at the Dumfries-Triangle Rescue Squad. The theme is a Hawaiian Luau. Tickets can be purchased at the Museum.

Mayor Foreman added that anyone who would like to donate an item for the silent auction should contact Ms. Barron.

Ms. Barron noted that if you donate an item the business would get free advertising and two tickets to the event. The tickets are valued at \$35; however, the purchase price is \$15.

D. PLANNING COMMISSION (PC)

John Webb gave the following report.

Work Session

1. Reviewed and discussed the proposed text amendment change Chapter 70, Article III, Division 6, Business, General District B-1, Section 70-247(A), Allowable Uses and Section 70-247(B), Uses Allowable with a Conditional Use Permit pertaining to a Veterinary Hospital.
2. Reviewed and discussed the proposed text amendment change to Chapter 70, Article III, Division 7, Business, Neighborhood District B-2, Section 70-282(B), Uses Allowable with a Conditional Use Permit pertaining to residential amenities.

3. Discussed the issues of compatibility between the Zoning Ordinance, the Subdivision Ordinance, and the Design Construction Standards Manual. The Commission requested staff look into the cost to have professional consultant's do the comparisons.

Regular Meeting

1. Approved/adopted the minutes of June 9, 2014 and August 11, 2014.
2. Held a public hearing for the proposed text amendment change to Chapter 70, Article III, Division 6, Business, General District B-1, Section 70-247(A), Allowable Uses and Section 70-247(B), Uses Allowable with a Conditional Use Permit pertaining to a Veterinary Hospital. Voted unanimously to recommend Council approve with the recommendation to add number 52 to section 7-247(A), Allowable Uses: "State licensed Veterinary Hospital with indoor boarding kennels and outdoor exercise runs"; and in section 70-247(B), Uses allowable pursuant to a conditional use permit, under number 17, remove the words "including boarding kennels on the premises" leaving Pet Shops, and remove number 23, "Veterinary Hospitals and Boarding Kennels."
3. Held a public hearing for the proposed text amendment change to Chapter 70, Article III, Division 7, Business, Neighborhood District B-2, Section 70-282(B), Uses allowable pursuant to a conditional use permit pertaining to Residential Amenities. Voted unanimously to recommend Council approve the text amendment change with the following recommendation to add to number 14 the following verbiage: (a) Up to 10% of the ground floor may be dedicated to residential amenities. Residential amenities shall not be located adjacent to Main Street. Residential amenities shall be located at the rear of the building. No residential amenities are permitted in a single story building.

Work Session Continued

1. Discussed Conditional Use Permit categories and Conditional Use language.

IN RE:

COUNCIL REPORTS

A. BOYS AND GIRLS CLUB

Ms. Reynolds asked if there were any questions.

There were none.

B. PARKS AND RECREATION COMMISSION

Mr. Wood gave the following report.

- ✓ Discussed the plans for the new equipment for Ginn Memorial Park and the barbeque grills.

- ✓ He attended a Kiwanis Club meeting with William O’Kelly Russell. Mayor Foreman, who sits on the Kiwanis Board, was an advocate of the playground equipment and spoke highly of the things the Commission has been doing.

C. NORTHERN VIRGINIA REGIONAL COMMISSION (NVRC)

Mayor Foreman gave the following report.

- ✓ The NVRC is working on their legislative agenda and will be looking for Council's input.
- ✓ Books were handed out called “Native Plants for Northern Virginia”, he will be picking up more, and they will be available at Town Hall.

D. PLANNING COMMISSION ADVISORY COMMITTEE (PCAC)

Mayor Foreman gave the following report.

- ✓ This was the first meeting in over two and a half years.
- ✓ Jonathan Way with the City of Manassas was elected as the Vice Chair and he was elected as the Chair.
- ✓ The Committee will cover long-range transportation planning, House Bill 2313 issues and the six-year transportation plan.

Mr. Wood asked if transportation projects in Dumfries would be addressed.

Mayor Foreman stated there is a meeting tomorrow and one next Thursday in Fairfax where discussions will take place regarding transportation issues with Route 1. He recommended that citizens attend and voice their concerns. He stated that because the project is not shovel ready it could get pushed back to the 2030 timeframe.

Mr. Wood wanted to send a letter from Council stating how Council feels about the Route 1 widening.

Mayor Foreman thanked the staff at Prince William County (PWC), the NVRC, and the Northern Virginia Transportation Authority (NVTA) for their support. He noted that when he speaks he speaks on behalf of the entire Council.

E. NORTHERN VIRGINIA CIGARETTE TAX BOARD

There was no report.

IN RE: STAFF PRESENTATIONS

A. DIRECTOR OF COMMUNITY SERVICES – RYAN GANDY

Mr. Gandy asked if there were any questions.

Mayor Foreman asked for more details about the parade theme.

Mr. Gandy explained that the Dumfries Elementary School students were asked to provide the staff with some ideas for the theme of this year's parade. The following four themes were provided.

- Christmas Around the World
- How the Grinch Stole Christmas
- Winter Holidays of the Past
- Holiday "Togetherness"

Council discussed the themes and consensus was to go with Christmas Around the World.

Mayor Foreman asked about the newsletter.

Mr. Gandy was under the impression the newsletter would be digital. He explained that the budget does not allow for printing and mailing of a quarterly newsletter.

Mayor Foreman suggested it be available digitally and that paper newsletters be available at the front counter. He felt that mailing was not necessary.

Mr. Gandy noted that if a citizen would like a paper newsletter mailed they can contact him for a copy.

Mr. Wood wanted more options presented at a work session.

Mr. Gandy mentioned there were 30 seniors at the senior luncheon. The Dumfries Cares ice cream social had 25 attendees.

B. PLANNER/ZONING ADMINISTRATOR – DARREN COFFEY

Mr. Coffey, interim Planner, stated he is in the office on Monday and Tuesday, but will be monitoring email and voicemail throughout the week. He asked if there were any questions.

Mayor Foreman noted the Town has a lot of good businesses, but there are a couple business owners who know when staff is here and when staff is not. Those businesses know exactly when to violate the zoning ordinances. He stated the Zoning Administrator needs to drive the Town at least once a day. He noted that businesses are displaying wares on the sidewalk. He feels part of the responsibility of staff, and Council, is to make sure that the zoning ordinances are conducive and working effectively. Most people know on the weekend that staff is not around. He mentioned that it needs to be routine, but not necessarily the same each week. He asked if staff has gotten back with the property owners at the O and T business.

Mr. Taber is in the process of looking at the information that was provided on the property that dates back to 2009. He, the Town Attorney, and Mr. Coffey are looking into what is fair and right for the Town and what is fair to the business owner as well.

Mayor Foreman mentioned that the owners are trying to locate paperwork as well and they stated they have always had vehicles there.

Mr. Wood commented that banners and flags bring in about 20 percent more business. He would like Council to address this and make a decision.

Mr. Taber stated that would be a work session item. He would have staff research the pros and cons and bring it back for Council to discuss.

C. DIRECTOR OF PUBLIC WORKS – RICHARD WEST

Mr. West gave the following report.

- The NVTA meeting tomorrow night will be at Fairfax City Hall at 7:00 p.m. located at 10455 Armstrong Street.
- On October 16, the Commonwealth Transportation Board will meet. There will be a local officials brief with a public hearing at 5:00 p.m., an open house at 5:30 p.m., and another public hearing at 6:30 p.m. This meeting is located at the VDOT Northern Virginia District Office in the Potomac Conference Room addressed at 4975 Alliance Drive in Fairfax.
- Tripoli Heights project right-of-way easements are finished with the filing of the certificate of take on the last two properties. A preconstruction meeting with the lowest bidder is being scheduled for next week. The project start date will be determined at the preconstruction meeting and a letter will go out to the residents.
- Cameron Street needs to be restriped. The contractor found that he had inaccurately measured the lines.

Mr. Brewer asked if the striping for Cameron Street would include the entire roadway.

Mayor Foreman noted it was the section of the road between Prince Street and Duke Street

Mr. West indicated they could have the contractor carry striping all the way up.

Mr. Brewer asked if there would be a meeting next week regarding Tripoli Heights.

Mr. West confirmed he has requested one.

Mr. Brewer asked if once the start date is determined whether a letter would be sent to the residents.

Mr. West responded that as soon as the notice to proceed is issued a letter will be sent out.

Mr. Brewer asked if they would discuss construction staging.

Mr. West commented that would be discussed during the preconstruction meeting.

Mayor Foreman asked if the request for proposal for Ginn Memorial Park site plan included a site plan being done for Merchant Park.

Mr. West stated the proposal will be broad in nature in order to include the issues at Ginn Memorial Park, Whitehaven, Tripoli Court, and a few more items.

Mayor Foreman commented the site plan for Garrison Park would be done by Pete Singh if his project is approved. There is no site plan for Merchant Park and the Town should have one on record.

When Council approved the \$74,000 for Ginn Memorial Park, it came from stormwater management funds. He had asked the question then, what projects were not going to get done. He is asking the questions now in preparation of the mid-year budget review and wants to make sure there is a plan for where the money is coming from. This information can be provided to Council at the next meeting. He asked about the crosswalks on Route 1. He needs to know where to apply pressure for the crosswalks. Sidewalks are being installed on Possum Point Road, so someone needs to find out about getting a covered bus stop. There are only two places in Town to cross Route 1 legally. The main people who will use the sidewalks are the business professionals in the two office buildings, they do go to Harold and Cathy's, and right now, they are crossing the street with no crosswalks.

Mr. West commented he would send the contact information for the VDOT project manager and their consultants' project manager.

Mayor Foreman noted the trees and grass were cut along Possum Point Road; however, the ditch was not dug out. He asked that it be looked at. He asked if staff has responded to Marvin Wilkins regarding the flooding in Prince William Estates.

Mr. West stated he had not. Staff was looking into whether there was an easement and it was determined that the Town does have an easement that goes behind the houses along the ditch line between Curtis Drive and Lyda Lane. Work can begin now and letters will be sent to the residents.

Mayor Foreman asked what the process is when putting in a retaining wall.

Mr. West indicated that typically staff will find out how the property owner feels about a retaining wall.

Mr. Taber clarified the Town can construct a retaining wall in the right-of-way since the Town owns it. The retaining wall is built so that it does not just drop off from one property to the next and make sure that it is aesthetically pleasing.

D. CHIEF OF POLICE – REBECCA EDWARDS

Mr. Taber informed Council that the Chief is attending training which will last until 9:00 p.m. The only thing that the Police Department is waiting on to initiate the bike patrol is the uniforms.

Mr. Wood mentioned that he had the opportunity to be at a high school during an active shooting drill and asked if the School Resource Officer (SRO) participates in these types of drills at Dumfries Elementary School.

Mr. Taber asked for more clarification on the type of drill since there are several different ones that are offered.

Mr. Wood indicated it was to train the students on what to do.

Mr. Taber would look into it.

Ms. Washington confirmed the SRO has done that drill.

Mr. Brewer asked if the Police Department has a storyboard for advertising when they participate in job fairs.

Mr. Taber explained the Police Department has table throws, pamphlets, and applications. He noted that they are getting an excellent response from these kinds of events. He did not think that they needed anything else; however, he will have the Chief provide a summary of what materials she uses.

Mayor Foreman stated the homeowners' association (HOA) contacted him about recreational vehicles, business trailers, and vans parking on the public road for excessive amounts of time without being moved. He mentioned Town Code, Section 62-131, states that parking of commercial vehicles in residential neighborhoods is prohibited.

Mr. Taber asked if that was by weight.

Mayor Foreman noted that number six specifies any vehicle with a weight rating of 12,000 pounds or more. He noted that this did not have to be answered tonight and could be provided as part of the next report. The code reads; parking for certain commercial vehicles in residential areas are prohibited. Under 62-131(a) it reads, no person shall park or leave unattended any commercial vehicles on any public highway in any residential district as defined in code 46.2. Under number 4 it reads, any trailer or semi-trailer regardless of whether such trailer or semi-trailer is attached to another vehicle is prohibited. He mentioned that this could be sent to the HOA's through a letter as well.

Mr. Taber noted the research would be done and he will report back to Council.

E. TOWN ATTORNEY – OLAUN SIMMONS

Mr. Simmons indicated the Town Manager realizes and shares the Council's concern regarding wares being displayed on the sidewalks. Staff has been contacting these businesses to let them know that it is unacceptable. He mentioned that the Elwey building does not have an enclosed dumpster, along with 11 other businesses in the Town, that staff will be addressing one at a time.

Mayor Foreman stated his questions are items he believes are being discussed in closed session, so he will wait until then to ask them.

F. TOWN MANAGER – DAN TABER

Mr. Taber gave the following report.

- Attended the Virginia Municipal Leagues (VML) Annual Conference where most of the sessions dealt with budget issues. There is a significant short fall on the State level. Once he finds out how this will affect the Town, he will update Council.
- As the Mayor mentioned the other organizations are in the process of developing their legislative program. The Council looks at the items they want to support in those programs.

What is more important is that the Town initiates those things that Council feels is very important to the Town. He would not be surprised if transportation was the number one item along with economic development. If Council is interested in a specific topic, staff can research the issue.

- He mentioned that a flyer was drafted that talks about towing during weather events and what the Town Code is that will go on the website and will be mailed to the HOA's.

Mayor Foreman indicated the way Council is going about doing its legislative agenda is broken. Typically, a work session is held and Council supports whatever VML and PWC are doing. Council then adds a couple of items. This year he wanted to see what the results were of the legislative agenda from 2013. The Town Manager can go through the list, indicate which were approved, and which were not. The Town supports the VML issues but at the end of the day how many of the Town's concerns were addressed in Richmond. This is key, because a lot of effort is put into this and Council needs to know if it needs to be attacked from a different direction. He would like a table or document showing how many of the Town's specific concerns were successfully supported by VML, the Delegate, the Senator, and PWC. The Town needs a strategy. Coordinate with PWC and VML to see when their lists are completed. He asked about the drug free zone signs.

Mr. Taber explained the signs can be installed, but the Town cannot have an increased fine or penalty for drug use at any of the parks.

Mayor Foreman asked Council to pick a day to meet to update the vision statement and talk about economic development. NVRC and VML representatives are willing to come and talk with the Town. He asked if a Saturday would work.

Mr. Taber noted November 15 and 22 appear not to impact the Thanksgiving Holiday. Thanksgiving Day is the 27th.

Mayor Foreman recommended the 15th from 8:30 a.m. to 12:30 p.m. He stated the major projects need to be reflected in the Comprehensive Plan (CP).

Mr. Coffey stated the Transportation Chapter of the CP contains a VDOT review that is mandated by State Code. They made sure that all of the main projects were in the CP. The CP should be good to go; however, if there anything pops up it should be included in the CP.

Mayor Foreman asked that the CP be compared to Loudon County and PWC to make sure the CP has the same level of depth because the Town is in competition with them. He then mentioned that in the FY15 budget money was set aside for property acquisition. He wanted a closed session scheduled in order to get it moving.

Mr. Taber stated that it is in the works and will be discussed at the November work session.

Mayor Foreman was seeing a trend on the secondary roads in the Town. Curb and gutter is being installed, new development is occurring, and there are cut-ins and bumps all over the place. Cameron Street is a prime example. The main road does not get re-asphalted once the curb and gutter are put in. He felt the Town needs a schedule for re-asphalting the streets.

Mr. Wood asked for an update on the VML conference.

Mr. Taber stated there were workshops on wide variety of issues. The budget discussion was a major topic. There was a discussion about using the Building Code to enforce community standards. There were discussions that dealt with the continued challenges of ethics and elected bodies. There is always a session on the Conflict of Interest Act (COIA) and one on the Freedom of Information Act (FOIA). He will provide a more in depth run through in his next report.

Mr. Wood asked about the grant that the Town was awarded for litter and recycling.

Mr. Taber stated that is for an education program.

Mr. West commented that the litter control grant goes toward the Quantico Creek Clean Up and pays part of the salary for Jimmy Vincent to walk around and pick up litter. The grant that was just applied for would be for education and comes from the Chesapeake Bay Restoration Fund that is funded from the sale of the Save the Bay license plates.

Mr. Brewer asked if the Town was going to wait for snow to accumulate to a certain depth before activating the snow emergency route.

Mr. Taber explained it is supposed to be proactive. The procedure requires that once you declare the snow emergency before it can actually go into effect you have to wait four hours. The experience in recent years has been that a storm could roll in and the accumulation could occur much faster than the four hours.

Mr. Brewer stated that in the past, for the legislative agenda, the Town used a law firm to go down and lobby on behalf of the Town then PWC stated that if the Town had an issue to let them know. He felt there needs to be a hands on approach taken. He thinks that if the Town creates a legislative agenda they need to be down there watching it and talking with people.

Ms. Washington asked about the status of having VML highlight the Ginn Memorial Park in their newsletter.

Mr. Taber indicated the application was submitted and it was not selected.

Ms. Washington stated that this should be relooked at it to see if maybe it should be reworded.

Mayor Foreman suggested that they review the last three winners from the VML website and then farm out the project to different Council Members for feedback and assistance.

IN RE: CONSENT AGENDA CONTINUED

A. RESOLUTION AUTHORIZING TOWN MANAGER INTO A CONTRACT FOR AUXILIARY TOWN HALL SERVICES – DAN TABER

Mr. Foreman moved, seconded by Mr. Brewer, to adopt the resolution authorizing the Town Manager enter into a contract for auxiliary Town Hall services. The motion carried and the following resolution was adopted by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, absent.

RESOLUTION AUTHORIZING TOWN MANAGER ENTER INTO A CONTRACT FOR AUXILIARY TOWN HALL SERVICES

WHEREAS, the Town of Dumfries (“Town”) has a need to secure temporary Zoning Administration auxiliary services; and

WHEREAS, a Request for Proposals for Contract Staff was advertised in the "Prince William Times", the Town of Dumfries Website, and the Virginia Department of General Services' central electronic procurement website on 6 August 2014; and

WHEREAS, bid packages were due on 18 August 2014; and

WHEREAS, bids were opened and read aloud on the aforesaid date; and

WHEREAS, the bids were reviewed by Town staff for completeness, correctness, and compliance with the bidding documents; and

WHEREAS, a recommendation has been made to accept the proposal submitted by The Berkley Group, the lowest responsive, responsible bidder; and

WHEREAS, the Virginia Public Procurement Act and the procurement policies duly adopted by the Town have been followed; and

WHEREAS, sufficient funds are available in the FY 15 approved budget to cover the costs of the temporary contract services.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Dumfries this 9th day of September, 2014 does hereby authorize the Town Manager to enter into a contract with The Berkley Group to provide temporary contract staff services.

B. RESOLUTION AUTHORIZING THE TOWN MANAGER ADVERTISE A PUBLIC HEARING FOR AN APPEAL OF THE ARB’S DECISION FOR THE TOWN HALL SIGN – OLAUN SIMMONS

Mayor Foreman commented that he would be voting no on this sign for several reasons. He asked what process was used that missed the approval process for the sign and why did the Town not comply with Town Code. He clarified that the procurement process was followed. He asked why the Town did

not take the ARB's recommendation and make the sign look more historical. How can the Town ignore or have the appearance of ignoring Town Code and expect private businesses and residents to follow them.

Mr. Taber indicated an assumption was made that the sign could be installed and that everything was followed. The Town found out that in fact, the procedures were not followed and the sign was not approved by the ARB. When this occurs whether it be the Town or a business, you go back and go through the process. The Town tried to address the ARB's concerns, a submittal was made, but it was denied too. The next step is to appeal the decision to Council. The Town can either remove the sign and go through the ARB with a new application or go through the public hearing process to see what Council wants. Council can overturn the ARB's decision or up hold it. The Council can even suggest what they feel is appropriate.

Mayor Foreman stated the vote for tonight is to send it to a public hearing.

Ms. Washington asked for clarification on the process and options.

Mr. Taber responded a no vote to send this to a public hearing would be another way of not supporting the appeal.

Ms. Washington stated she feels the sign is nondescript. She will be voting to move it forward.

Ms. Reynolds asked how much it would cost to bring the sign into conformance.

Mr. Taber responded the ARB has asked the Town to come back with a plan to add things like a scroll across the top and brick along the base. There would have to be a design drawn up, which would determine the cost.

Ms. Reynolds asked what would be the difference in starting from scratch and redesigning the existing sign.

Mr. Taber stated the cost of the sign was around \$5,000 and if a new one was purchased it could cost around an additional \$5,000 to \$7,500.

Mr. Foreman moved, seconded by Mr. Wood, to adopt the resolution authorizing the Town Manager advertise a public hearing to appeal the ARB's decision for the Town Hall sign. The motion carried and the following resolution was adopted by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, no; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

RESOLUTION TO AUTHORIZE THE TOWN MANAGER ADVERTISE A PUBLIC HEARING FOR AN APPEAL OF A MOTION MADE BY THE ARCHITECTURAL REVIEW BOARD

WHEREAS, the Town of Dumfries Town Council has received an appeal of the Architectural Review Board motion denying the proposed historic design to the Town Hall sign, the appeal was prepared by the Town Attorney; and

WHEREAS, Town Council has reviewed the materials and at the September 23, 2014 work session directed staff to move forward with scheduling a public hearing for the appeal.

NOW, THEREFORE, BE IT RESOLVED by Town Council that the Town Manager is authorized to advertise for a public hearing to be held on November 5, 2014 to consider the appeal of the decision of the Architectural Review Board.

**IN RE: COUNCIL REPORT ON MEETINGS WITH ELECTED OFFICIALS
PERTAINING TO THE TOWN**

There were none reported.

**IN RE: ACTION ITEMS
A. PUBLIC HEARING – ORDINANCE ZONING TEXT AMENDMENTS TO 70-247(A) AND (B) RELATIVE TO ANIMAL HOSPITALS, BOARDING KENNELS, AND PET SHOPS – OLAUN SIMMONS**

Mr. Simmons advised the PC held a public hearing on September 15, 2014 in which the PC addressed the proposed amendment to Town Code 70-247. After the public hearing, the PC made recommendations regarding the proposed zoning ordinance amendment, and those recommendations are reflected in the proposed ordinance. The PC's recommendations included adding the wording under 70-247(A), Veterinary hospital, state licensed, with indoor boarding kennels and outdoor exercise runs. Also, under 70-247 (A), in respect to dog grooming change the wording from without indoor or outdoor kennel facilities to with indoor kennel facilities. Under 70-247(B), removing the words including boarding kennels on the premise from pet shops. Also under 70-247(B) the removal of veterinary hospitals and boarding kennels.

Mr. Brewer asked how the change in the ordinance compares to the original ordinance.

Mr. Simmons stated that veterinary hospitals were a by-right use with indoor boarding kennels, but there was an added requirement that they be a state licensed facility.

Mayor Foreman commented that this is a case of a business owner and the Town working together to go through the process.

The public hearing was opened to citizen comment.

Patricia Healy Attorney, Leming and Healy P.C., was here on behalf of Doctor Roger Nichols and his animal hospital. Her client would like Council's support for this text amendment. It was thoroughly discussed at the PC level. She appreciates the language that was proposed.

There being no further citizen comments the public hearing was closed.

Mr. Foreman moved, seconded by Mr. Brewer, to introduce the ordinance and move it under the November 5 consent for adoption. The motion carried by the following roll call vote: Mr. Brewer, yes;

Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

B. RESOLUTION APPOINTING TOWN MANAGER AS ZONING ADMINISTRATOR – DAN TABER

Mr. Taber stated that a consultant was hired to serve as the Zoning Administrator while the current Zoning Administrator is out of the country. Following a discussion with the Town Attorney and the contracted Zoning Administrator, it was decided the best course of action from a liability standpoint would be to appoint the Town Manager as the Zoning Administrator for procedural matters. The contracted Zoning Administrator would make determinations, do the fieldwork, and bring those to the Town Manager to review and sign.

Mr. Wood moved, seconded by Ms. Reynolds, to introduce the ordinance and move it under the November 4 consent for adoption.

Mr. Brewer asked if this was for enforcement purposes.

Mr. Taber responded it would be for everything. This would be for zoning determinations in case they are appealed.

Mr. Brewer asked if the Zoning Administrator needed to be certified.

Mr. Taber commented that it is not required.

Mr. Brewer asked why they need a contracted Zoning Administrator if the Town Manager is being designated.

Mr. Taber noted that he does not have the background and expertise.

The motion carried and the following resolution was adopted by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

A RESOLUTION TO APPOINT THE ZONING ADMINISTRATOR FOR THE TOWN OF DUMFRIES

WHEREAS, *Virginia Code § 15.2-2286(A)(4)* allows the Council of the Town of Dumfries to appoint a Zoning Administrator for the administration and enforcement of the zoning ordinance; and

WHEREAS, the current Zoning Administrator will be unavailable for approximately ninety days; and

WHEREAS, the Council of the Town of Dumfries now needs to appoint a Zoning Administrator for the Town; and

WHEREAS, the Council of the Town of Dumfries is prepared to make this appointment.

NOW, THEREFORE BE IT RESOLVED by the Council of the Town of Dumfries on this the 8th day of October, 2014, that Daniel E. Taber be hereby appointed as Zoning Administrator for the Town of Dumfries, and that he shall have all necessary authority on behalf of the Council of the Town of Dumfries to administer and enforce the zoning ordinance of the Town.

IN RE: CLOSED SESSION

Mr. Wood moved, seconded by Mr. Foreman, to convene into closed session. The motion carried and the following resolution was adopted by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

WHEREAS, the Dumfries Town Council desires to discuss a particular subject in Closed Session during the course of its meeting of October 8, 2014; and

WHEREAS, the nature of the subject is the discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Town, consultation with legal counsel pertaining to actual or probable litigation, and a personnel matter. The discussion of same in Closed Session is expressly permitted by Section 2.2-3711(A)(3), 2.2-3711(A)(7), and 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Dumfries does hereby convene in Closed Session for the purpose(s) herein expressed pursuant to the legal authorities herein recited.

Mr. Wood moved, seconded by Mr. Foreman, to reconvene into open session. The motion carried and the following resolution was adopted by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

WHEREAS, the Town Council of Dumfries has completed its discussion in Closed Session, and now desires to continue its meeting in Open Session; and

WHEREAS, each and every member of this said Council who votes affirmatively for the adoption of this Resolution does thereby certify that, to the best of his/her knowledge, only public business matters lawfully exempted from Open Session were heard, discussed, or considered during the Closed Session, and that the only subjects heard, discussed, or considered in said Closed Session were the matters identified in the Resolution by which it was convened.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Dumfries does hereby reconvene in Open Session at its meeting of October 8, 2014 and certifies the matters set forth in Section 2.2-3712(D) of the Code of Virginia, 1950, as amended.

IN RE: ADJOURNMENT

Mr. Foreman moved, seconded by Ms. Reynolds, to adjourn the meeting. The motion carried by the following roll call vote: Mr. Brewer, no; Mr. Foreman, yes; Ms. Forrester, absent; Ms. Reynolds, yes; Mr. Toney, absent; Ms. Washington, yes; Mr. Wood, yes.

OCTOBER 8, 2014 COUNCIL MEETING MINUTES

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Minutes submitted by

Approved by

Dawn Hobgood
Town Clerk

Gerald M. Foreman
Mayor