

AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL, HELD ON SEPTEMBER 18, 2012, AT 7:00 P.M., IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA:

THERE WERE PRESENT: Mayor Gerald Foreman
Vice-Mayor Willie Toney
Charles Brewer
Kristin Forrester
Louis Praino
Helen Reynolds
Gwen Washington (arrived after roll call)
Dan Taber, Town Manager
Christine Sanders, Town Attorney

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: CITIZEN COMMENT PERIOD

Kate Shifflett, representative of Image Church, was before Council to announce the 2nd Annual IWALK for ACTS being held on October 13 from 10:00 a.m. to 2:00 p.m. Image Church is proud to be co-sponsoring the event with ACTS of Prince William County. This is a 2.25-mile walk through the Town, followed by a family festival at Merchants Park. The registration fee is \$20.00 for participants 25 and under and \$30 for 26 and older. The family festival will include live entertainment, moon bounces, and kids' activities for anyone who wants to come out. The festival portion is free to the community with the hopes that a lot of the neighbors will join.

Ms. Washington joined the meeting.

Brenda Via understood the Council has a tough decision ahead of them. She wanted Council to consider what the landfill has done for the community. The community is trying to bring in more development and build itself. She asked if the landfill went up whether the Town was going to go back to being labeled the way it was before, the dump of Dumfries. She asked what the landfill was going to offer the Town. The Town needs them to work with us, give us something first, and help us because it is tough economic times. If the landfill helps the Town build businesses then maybe we can work and have a sharing partnership. The Council has to think how the landfill can generate revenue for the Town first.

Sue Cornell owns property just below the landfill. The landfill has been terrible to her property. Years ago, when the landfill first started it washed down on her terribly. Trash was coming down on her.

She still gets a terrible smell there. The landfill has not lived up to the promises made years ago when she sat on the Council. The Council then tried to work with them and got nowhere, just like Council is not getting anywhere with them now. To build higher would be the wrong thing to do because it would be washing down on property owners and it is not just Tripoli Heights who has been bothered by the landfill. The landfill could go on the other side, build some buildings, bring in some revenue to the Town, but they never listened to the Town or worked with the Town to help or show the Town they really wanted to help. They wanted to do a racetrack and the Town said no. She wanted Council to think long and hard and make the landfill stick to anything that would be of benefit to the Town, not just them.

IN RE: PRESENTATIONS

A. UPDATE ON GINN MEMORIAL PARK

Mr. Taber gave the following update on Ginn Memorial Park in a PowerPoint presentation.

Ginn Memorial Park Purchase

- The Town of Dumfries applied for and received a CDBG grant in the amount of \$270,000 to purchase land for the development of a park in Dumfries.
- On April 8, 2011 (FY11), settlement was made on the purchase of property at 3876 Graham Park Road to be used for that purpose at a final total cost of \$330,367.84.
- In addition to the grant money used, the Town paid the additional \$60,367.84 at settlement from General Funds as no amount was budgeted in the FY11 Budget to cover the additional costs involved.

Land Preparation

- In the first half of FY12, funds were spent at the park for structure demolition, debris removal, septic and well abandonment, and some basic initial leveling and grading of the areas involved.

Ginn Memorial Park Development

- In February 2012, Town Council adopted a Phase 1 plan for the park within the Comprehensive Plan that would include a gravel parking area lined with timber, the placement of two stone trails, a multi-purpose fenced in court for basketball and other activities, a multi-purpose field for field sports, and a play area that would include swings and benches.

A Continuing Process

- Regular meetings of the Ginn Park Committee were held during the past year during which many individuals participated and provided valuable input concerning the park and the specifics of implementing Phase 1.

Phases vs. Fiscal Year

- It is important to understand that phases for this project are **not** directly tied into a particular fiscal year, but are **event driven**. In other words, funding in a particular FY

may not be enough to complete all of the components of a specific phase of the project. As additional funding is allocated in future fiscal years, outstanding work from the current phase must be completed before advancement is made to the next phase.

FY 12 Funding for Phase 1

• FY 12 Budgeted Funds	\$37,500.00
• FY 12 Mid-Year Review	\$10,000.00
• Garrison Park Compensation (Singh Franchise Agreement)	\$60,000.00
Total Funds All Sources	\$107,500.00
Total Expenditures	<u>\$102,060.60</u>
Unspent FY 12 Funding	\$ 5,439.40

Phase 1 was not fully funded by the monies allocated for FY 12

FY 13 Allocated Funding

• FY 13 Budgeted Funds	\$37,500.00
• FY 12 Carry Over If Approved	<u>\$ 5,439.40</u>
Total FY 13 Funds Available	\$42,939.40

Phase 1 must be completed utilizing FY 13 Funding.

Phase 1 Completed Components

The following components of Phase 1 have been completed:

- Structure Demo and Removal
- Septic and Well Abandonment
- Initial Leveling and Grading
- Parking Lot and Pathways
- Multi-Purpose Field – graded and seeded but will not be ready for use until Spring 2013

Phase 1 Pending Components

The following components of Phase 1 have yet to be completed:

- Fenced-in Basketball Court (October 1st)
- Timber Lining of Parking Lot (October 5th)
- Purchase and Installation of Swings and Benches (November 1st)

Phase 2

- Council must approve Phase 2 of the Ginn Park Project before work can begin on that phase. The scope of Phase 2 will be discussed later this evening and a resolution identifying the components of Phase 2 will be presented to Council for consideration at a later date. Keep in mind that Phase 2 might not be completed in FY 13 due to financial constraints.

FY 13 CDBG Grant

- Later in the meeting tonight, Staff will be recommending to Council that the Town apply for a \$60,000 CDBG Grant to purchase and install additional playground equipment outside of what might be purchased with FY13 budgeted funds. A resolution in support of that will be presented to Council at the October 9th meeting.

Capital Improvement Program (CIP) Impacts

- The Ginn Park Project should be included in the CIP that Council will review and approve in early 2013. I intend to include the project in my CIP proposal and earmark a basic amount of funding in the CIP for this project each year of the CIP that will come from budgeted amounts eventually decided on by Council in the budget process.

Summary

- Council has approved the establishment of the Ginn Memorial Park and has been provided with a concept plan that outlines a vision for future expansion and development of the park. The concept plan may change over time and the actual expansion and development of the park will depend on a variety of factors including actual park usage and available revenue sources. The approval of specific additional phases and the scope of work to be included in those phases will be a key to successful, managed growth of the park.

Mayor Foreman indicated that at the end of FY13 \$199,000 had been invested in Ginn Memorial Park.

Mr. Taber agreed.

Mr. Brewer asked when the \$60,000 was negotiated.

Mr. Taber noted this was before his tenure; however, he was able to ascertain that the Director of Public Works was asked to assess the value of the equipment. An approximated value was given of \$120,000 to the then Town Manager. The then Town Manager entered into negotiations with Mr. Singh in what is referenced to as a franchise agreement. The franchise agreement dealt with the use of some of the Town's property for parking and the loss of the playground equipment. An agreement was come to based on those negotiations and made part of the franchise agreement and how the \$60,000 was negotiated.

Mr. Brewer noted that the \$60,000 was originally negotiated if Mr. Singh was to put up the park behind Town Hall then the Town was to purchase the playground equipment. Now the Town has taken the responsibility of building it themselves so that should have been renegotiated.

Mr. Taber did not doubt that that was factual. The records limited him and that is not reflected.

Mr. Brewer noted the invested figure is \$199,000; however, it is more like \$470,000 if you include the grant money, which is not free money. It is taxpaying citizen's money in Prince William

County, which citizens of the Town pay. He asked if anyone knows what the plan is for Phase II and Phase III. He asked where the Town was ultimately going with the park. His question all along has been what is the plan. He thought it looked like the plan was being made up as it goes along. Normally when you do something like this there already is a plan in place then you spend money to implement that plan. He felt the process was being done backwards.

Mr. Taber explained there is a vision and a concept that was presented more than a year ago in reference to what the park would look like. The phases will change over time. In other words, the concept plan is a vision to allow Council to make decisions on the phases. For example, the first year of use, once the playground equipment is installed, the Town staff will monitor the use to determine if the basketball court, multipurpose field, and playground are big attractions to assist in making decisions on where to proceed from there. A Ginn Memorial Park Committee was formed to act as a group to make recommendations to Council on what the next phase would look like. It is his understanding that later in the meeting the Chair will present to Council what Phase II is going to look like and may be prepared to talk about what may be in Phase III.

Mr. Brewer questioned that at this point Council does not know what the ultimate goal is. He asked when the park was finished what was going to be there. When you build a building, you know what is going to be there. You know how many square feet you have to rent out or use. He asked if Council knew what the ultimate goal was.

Mr. Taber noted Council could very well, if they so desire, approve an ultimate goal at the next Council meeting. He did not recommend that because anything the Town engages in is a dynamic process. The use of the park is a big thing. He doubts that the Town is going to have a park that no one uses. He thinks the exact opposite. It has always been Council's position, at least from his understanding, to listen to citizens. He thinks the recommendations for Phase II will take into account citizen input on some of the things they want in the park. Council could develop an end strategy and develop phases to get to that end strategy. His recommendation is to do it in phases and go no more than two phases ahead.

Mr. Brewer agreed with that. The plan should have been drawn up or gathered before the money was applied for. You have a plan, then you have the money, and then you implement the plan.

Mr. Taber cannot address the thought process. He did note that with the current grant there is a plan. The plan is to purchase playground equipment and where it will be located. As long as Council agrees to Phase II, which is continue with the purchase and installation of playground equipment. This will allow staff to move forward within the existing budget.

Mr. Brewer asked why it was not negotiated to have the buildings removed from the property so the Town did not have to pay for it.

Mr. Taber did not know and nothing was in the record that would give him any idea. He explained when property is purchased there are several conditions that can be put on the purchase and it is clear those conditions were not placed on the property.

Mr. Brewer wanted to use this as a lesson so that in the event the Town does purchase any future property with structures it is negotiated to remove the structures instead of paying other people to remove them.

Mayor Foreman pointed out that Council knows what the ultimate look of the park is going to be. The then Council went out of their way to get citizen input. It was William O'Kelly Russell, Mr. Toney, and Ms. Barr who came up with what the park is to look like. The driving force for Phase I was clarity of what it would look like, it was never stated what it would cost, hence the reason for an event driven phase and not a monetary phase. The only thing that was said was that once Phase I was done a definition was needed of what Phase II would be. The Town Manager would provide an update and completion date for Phase I. It may occur in the middle of a fiscal year. The Town Manager or the Committee would then present to Council Phase II. He noted it might take 30 years to finish the park. It is about approving each phase so that no funds are expended that have not been approved. The thing the Council needs to be aware of is that the Council, which is based off the Town Manager's presentation during the annual budget cycle, controls the money. The initial vision included having private funds. The Committee is formulating a fundraising policy and Nancy West has talked to Council about a memorial. He pointed out that Council has done the right thing and there is clarity for the park.

Mr. Toney understood the money provided by Mr. Singh was to compensate for using the land and the purchase of equipment wherever the park was located.

IN RE: BOARDS & COMMISSIONS

A. ARCHITECTURAL REVIEW BOARD (ARB)

Jennifer Stringfellow, Chair, reported the following items.

- There were no applications for certificates of appropriateness to review.
- The Design Guideline update was worked on with Darren Coffey of the Berkley Group.

Mayor Foreman noted the ARB's agenda listed a discussion on Dumfries Vision. He asked what celebrating Port Town Heritage, defining a new direction, and recreating a hybrid Town history meant.

Ms. Stringfellow noted these were ideas Mr. Coffey had. He wanted to know the direction the ARB wanted to take the historic district. Celebrating Port Town Heritage was whether the ARB was

trying to recreate the feeling of the original port. Defining a new direction was whether the ARB was going to be building a lot of new infrastructure. The recreating a Hybrid Town History was about acknowledging the development of the Town over time. She believed the ARB was going for more of the hybrid Town history because there are different phases of growth represented in the Town, especially on Main Street and the original grid of the Town area on Duke Street and Fairfax Street. In this area, there are some colonial era structures and more predominately, the early 20th century structures that really define how the Town was developed along with some of the more modern buildings. The Design Guidelines will be before Council to make comments later in the year.

B. BOARD OF ZONING APPEALS

There was no report.

C. HISTORIC DUMFRIES

There was no report.

D. PLANNING COMMISSION (PC)

William O'Kelly Russell, Chair, reported the following items.

- Discussions were held on a conditional use permit for the Matthew Center, which is a non-profit school to be located at the Pillar Church site.
- The review, update, alignment of descriptions, governances, and allowances for the B-1, B-2, and FB/O-1 zoning districts are being evaluated based on the activity, the intensity, and the goal of the Comprehensive Plan.
- A text amendment is being looked at for additional civil penalties for zoning violations due to issues of enforcement. This would give the Zoning Administrator the ability to issue tickets and fines directly to violators. This will provide quicker compliance to violations opposed to having to wait until the violations can be taken to court.
- A public hearing will be held on a text amendment for the allowance of religious institutions and non-profit organizations to display temporary signs.
- Council requested that the PC provide a second option to allow food vendors to operate in a roadside setting. In reviewing the allowance of food vendors in a roadside setting, the PC was unable to come to a conclusion and felt that it was not appropriate to propose any language or use that was not appropriate for the Town. The PC reiterated its position of only allowing food vendors to operate in public sponsored events.

- A review of the temporary uses to clarify language for yard sales is being worked on. The PC is in favor of removing the permit requirement for individual residences provided the number of events is limited per year. This will prevent individuals from operating a business in the guise of a yard sale.

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

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

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

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

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

Ms. Forrester was a little confused because the PC on many occasions has written language. The Council has specifically asked for it two times now. Council was hearing loud and clear that the PC does not think it is a good idea; however, the PC works for Council. She mentioned the PC came to Council not quite a year ago about problems with staff twisting things. It was noted then that the PC works for the Council and not staff. She stood up for the PC being appointees of Council and that they work under

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

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

Ms. Forrester asked when the PC or staff crafts the language. It appears that when the PC wants to recommend something they have no problem crafting the language. She wanted some clarity to the process and if staff was going to craft the language two weeks ago, why it was not done.

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

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

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

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

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

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

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

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

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

Ms. Sanders noted there is State Code.

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

Ms. Sanders was not aware of any.

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

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

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

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

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

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

Mr. Taber agreed.

**IN RE: COUNCIL REPORTS
A. GINN PARK COMMITTEE**

Mr. Toney noted the Committee discussed the presentation that was given by Mr. Taber this evening and the CDBG grant, which will be presented by Mr. Brim.

B. EVENTS COMMITTEE

Mr. Taber noted the Committee talked about the recent Fall Festival. They spoke in detail about the positive issues of the festival. Discussions were held on ideas for the Parade Theme and Grand Marshall that will come before Council at the next meeting. Applications for the Christmas Parade have been postponed. A Christmas Tree Lighting event is being planned for the night before the parade.

C. NORTHERN VIRGINIA REGIONAL COMMISSION (NVRC)

There was no report.

D. NORTHERN VIRGINIA CIGARETTE TAX BOARD (NVCTB)

There was no report.

IN RE: STAFF COMMENTS

A. TREASURER – RETTA LADD

Mr. Taber noted that Ms. Ladd was feeling ill and had to leave; however, if there are any questions he will be sure to get them to her. He mentioned that the auditors would be in tomorrow working on the audit for FY12.

B. TOWN ATTORNEY – CHRISTINE SANDERS

Ms. Sanders participated in more court proceedings this past month than usual. Other issues that have taken a lot of her time are the Potomac Landfill, Business Tax collections, and personnel issues.

IN RE: DISCUSSION ITEMS

A. POTOMAC LANDFILL'S REQUEST TO EXPAND VERTICALLY – MAYOR FOREMAN

Mayor Foreman wanted to make sure the two agenda topics for the Potomac Landfill (PL) were not mixed together.

Mr. Brewer asked if the discussion on the PL could be reversed

Mayor Foreman moved, seconded by Mr. Brewer, to reverse the order of discussion for the PL. The motion carried by the following roll call vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, yes; Mr. Praino, yes; Ms. Reynolds, yes; Mr. Toney, yes; Ms. Washington, yes.

B. RESPONSE TO POTOMAC LANDFILL DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) CONSENT ORDER – DAN TABER

Mr. Taber asked that a representative from the Department of Environmental Quality (DEQ) explain the process of the consent order and what it means.

Thomas Faha, Director of the Northern Regional Office, noted that facilities are subject to DEQ's permitting regulations, if at any time DEQ feels that the conditions of a permit have been violated a notice of violation will be issued. This is an alleged notice of violation until a case hearing has been held and determined. Once a notice of violation is issued an enforcement process is entered into, which is an administrative process where negotiations are entered into. The DEQ has no policing authority. Virginia Statute governs the DEQ. The negotiation process takes a long time and is done in private. When DEQ comes to terms, once a signature is gotten from the responsible party, it is noticed. There is a statute for air, water, and waste, which require different procedures. The public is then invited to comment. Comments are received and DEQ determines whether something might have been missed that would warrant going back to negotiations. Negotiations started in December and went on until August.

Ms. Reynolds asked if the PL has to correct the issues in the consent order.

Mr. Faha indicated that was correct. Two notices of violation were issued last year. The primary issue that took so long to negotiate was the height. A course of action has been set forth in the consent order to comply with the 195 feet. Currently the height of the PL is above the 195 feet. There were a few other odor issues that were addressed to include an odor management plan; a better means to monitor, record, and act upon.

Mrs. Reynolds mentioned there is mining, leaking, and other things in the consent order that are a problem and need to be corrected. She did not understand why the PL keeps coming before Council asking to go higher when there are things that need to be corrected before going other places.

Mr. Brewer asked if a closure plan has been submitted.

Richard Doucette, Land Protection Program Manager for DEQ, indicated a closure plan was submitted as part of the 2010 permit modification, which would close the landfill at 195 feet, as currently permitted.

Mr. Brewer asked if there were any additional regulations if the landfill is allowed to go up to the 310 feet. He understood that the lined area is like a bathtub, for all intensive purposes, where the leachate goes into a collection area, is treated, and pumped out. He asked if since additional materials would be added to the landfill whether modifications would need to be made.

Mr. Doucette explained currently what is in the consent order addresses the modifications and the permit the PL currently has in house. The current permit allows them to work up to 53 acres and go to 195 feet. The landfill always has to be designed to meet the regulations and show that leachate is at adequate control whether the elevation is at 195 or 310 feet.

Mr. Brewer noted if the PL is allowed to go to 310 feet the modification to their leachate collection area has to be submitted to DEQ and approved.

Mr. Doucette agreed.

Mr. Faha explained that in order for the PL to go to 310 feet it would require the Town's action. He noted that DEQ would then have to modify the permit. During the modification, DEQ would address the line of questioning being asked.

Ms. Sanders clarified that the permit is for 195 feet, which is based on the 1987 consent order. Any modification to the vertical allowable height would require the Town to amend the 1987 court order that would trigger the necessity to have a permit modification by DEQ.

Mr. Brewer asked if the permit was for the entire landfill or just a specific cell.

Mr. Doucette explained there are two parts to the current permit. The first permit is for site that allows for a 53-acre area that the PL wants to expand within and in for review. The second part of the

permit is the design, operation, maintenance, closure portion and that is for the cell structure/design currently up to 195 feet. There is a permit modification in to go horizontally.

Mr. Brewer asked if there were three or four cells.

Mr. Doucette explained some were split up. There are two cells, 1a and 1b, that are lined, and then there is one unlined cell, which PL calls 3 and 4.

Mr. Brewer asked with the unlined area, if DEQ allowed PL to go out if it would be unlined as well.

Mr. Doucette explained that any modification of the regulations makes the facility meet the current standards. They would have to meet a Subtitle D, standard lined system that includes either a compacted clay or textile, which acts as an impermeable boundary, a transmissive layer to collect any leachate. A liner would have to put down to protect any downward migration of leachate or other materials.

Mr. Brewer asked if the area that is unlined now has a leachate collection system or area.

Mr. Doucette noted the leachate collection system is only for the lined cells.

Mr. Brewer mentioned that any leachate that goes into the ground goes into the Town's groundwater.

Mr. Doucette explained that right now the leachate is collected in the lined and in the unlined area. The PL has a groundwater system monitoring well that is required by the regulations. This is monitored on a quarterly basis to prove that there has not been any groundwater degradation.

Mr. Brewer pointed out that the PL monitors it.

Mr. Doucette indicated that DEQ reviews it.

Mr. Brewer noted this has been his issue for years. Neither the Town nor DEQ monitors the PL. The PL does its own testing and sends the results to DEQ, unless DEQ goes out and does a spot inspection. He had originally asked Mr. Leake and his sister to be present to answer questions and obviously, it was not that important for them to be here. That right there degrades any type of conversations he has had with them in the past about this issue. He knows that DEQ is in a tough spot because you are like the middleman. It is too bad the Town cannot have a lot more monitoring going on up there then what is being done now by the PL. He asked if paperwork was submitted to DEQ on a regular basis.

Mr. Doucette noted that is part of the permit. The PL keeps records and is required to submit gas records for methane and groundwater records on a quarterly basis and on an annual report basis.

Mr. Brewer asked if records were being submitted for H₂S, hydrogen sulfide.

Mr. Doucette noted a monthly odor-monitoring log is submitted that was created back in 2010 during part of the last permit modification.

Mr. Brewer recalled that Mr. Leake stated that if he had to do it all over again, with the problems of the rainwater and the earthquake, he would do it. With that being the case, he questioned DEQ granting another permit if PL is not going to be a good neighbor of the Town or take care of the mess up there. The smell was terrible for a month because of groundwater the PL could not control in the first place. The PL is asking for a permit to go higher when they cannot control what is there now. He does not know why the State or the County would allow the PL to do any type of permit modifications when they cannot take care of what they have.

Mr. Faha explained DEQ is not entertaining any modifications requests to go higher.

Mr. Brewer was talking about out, higher, up, through, whatever.

Mr. Faha stated again that negotiations were tough. The events of last August and September a year ago were extraordinary. It was DEQ's position that the operation and maintenance of the PL that preceded those events is where fault had laid. There were some catastrophic environmental impacts, not so much with landfills, that occurred due to Tropical Storm Lee and DEQ chose not to take any kind of enforcement action. The law gives them the discretion to use good judgment. When you get 10 to 12 inches of rain in a 24-hour period, it is an extraordinary event. In this case, DEQ felt that better management of the facilities would have mitigated the effects on the citizens. DEQ staff initially noted the high hydrogen sulfide levels. The PL was already permitted in terms of doing a lateral expansion. The permits have to be modified to address the operations of that expansion and are what Mr. Doucette is working on. In terms of siting, that is already permitted and those permits would have proceeded only with prior Town action having already occurred.

Mr. Brewer encouraged that before DEQ approves any permits that this significantly affects and impacts the citizens around that landfill greatly whether it be from smell, dust, vermin, and things of that nature whether the landfill goes up or out. He could not support going up because of the irresponsibility of the landfill in the past. It has been a constant battle with the landfill, that first of all the courts should not have allowed, and the Town should not have agreed. The PL is going to operate as long as DEQ allows them to. If it were up to the Town, it would have been closed years ago.

Mr. Praino asked how DEQ missed 260 cubic yards of debris when they are supposed to be monitoring and observing the PL.

Mr. Faha noted there is no regulation specifying or limiting the height of a landfill. He explained the only reason the permit states 195 feet is because of the stipulation order. It was a stipulation of the Town. Height is not something that DEQ monitors and an inspector would not be inclined to check on a

routine inspection. In support of Mr. Doucette, his department handles landfills from Arlington to Charlottesville, has four positions to handle them, and two of those have been vacant well over a year.

Mr. Praino asked how far back DEQ keeps records.

Mr. Doucette noted there are records dating back to the Department of Health days, which is when the one page permits were issued back in the late 60's early 70's. The files are sparse from there up until the 80's.

Mr. Praino asked if someone would have the original permit that started the whole thing.

Mr. Doucette believed DEQ did. He noted it was a one-page permit for a stump dump.

Mr. Praino asked if it was possible to get a copy of the original permit and the permit that was issued after the court battle in 82 or 83.

Ms. Sanders did not think the Town had any documentation prior to 1987.

Mr. Doucette advised that a cd was provided to the Town with all of the files DEQ has.

Ms. Reynolds asked if DEQ had a signed consent order.

Mr. Faha noted the consent order has not been signed yet. There is a 30-day period for comments.

Ms. Reynolds understood the Town has to agree with what DEQ has written.

Mr. Faha explained the agency does not need to have the Town's concurrence. The agency does want it and it would be nice if the Town's comments could be addressed in full; however, the agency is not obligated to.

Ms. Sanders advised Council that the consent order being discussed was provided to Council previously and the waste removal plan that was referred to was placed on the dais before the meeting.

Ms. Washington noticed that per the compliance order there was a timeframe provided for the landfill to create or update the Odor Management Plan, Leachate Pre-Treatment Plan, Mining Plan, Soil Management Plan, Closure and Post-closure Plans. She understood the updating but was a little confused about the create. She asked if that meant the PL did not have these plans before.

Mr. Doucette explained as part of the regulatory amendment process the regulations were updated last year and the Leachate Management Plan was never part of the permit in the past. In addition during this regulatory update the Operations Plan were taken out of the permit as an enforceable document. It is now overseen by the facility; DEQ now writes a new module that writes enforceable portions of that that would include the Mining Plan and Leachate Pre-Treatment Plan in order for it to be an enforceable document under DEQ's purview.

Ms. Washington understood that not until recently was this part of DEQ's review.

Mr. Doucette agreed.

Ms. Washington understood being shorthanded. The plan presented is something and it is too bad it could not be done on a more regular basis. This is really what this landfill needs, and sure most landfills would need, is to have this plan handed to somebody in order to know at the beginning of the year what was expected of them.

Mr. Toney asked what the enforcement would be if the consent order was signed and the PL did not comply with the regulations and deadlines.

Mr. Faha explained it is an agreement. He noted that at no time has the PL admitted or concurred with the notices of violation that were issued. In order to end this the PL agreed to the settlement. The PL took the position that the language in the permit and in the stipulation order was that only when the landfill closed did it have to be at 195-feet. DEQ's position was 195 feet at all times. The consent order keeps DEQ from going to court. If having entered into the agreement the PL violates the terms of the agreement DEQ's process would then be to take the matter to the Attorney General's Office. The Attorney General's Office would then be inclined to take action.

Mayor Foreman mentioned that 24 months ago it was noted the PL was above the 195 feet. In a letter dated August 26, 2012, Timothy G. Hayes, from Hutton and Williams, stated the portions of the landfill that exceed elevation of 195 feet are temporary stockpiles that will be removed prior to final closure of the facility. Closure under the current stipulation order is not set and mining can go on forever. He asked why the consent order allows 60 months for the PL to get down the height down to 195 feet and not 24 months. He understood it was a negotiation of a settlement and he understood the PL's not agreeing with everything in the consent order and is not an admission of guilt. He felt the decision should not have been monetary at all with the landfill. He asked who decided on 60 months.

Mr. Faha noted it was DEQ. He explained that Mr. Hayes was replaced early on in the process. The PL's new counsel took a different tact with DEQ in the negotiation process. The 195 feet is not an agency regulation and strictly comes from the Town. Going into the process, no complaints were received from the Town Council or citizens that there was a problem with the 195 feet. He noted the height is not an environmental consequence. During the negotiations, the Town was entertaining the proposal from the PL to increase the height to 300 feet and if the Town agreed while DEQ was in the middle of negotiations, it would have put them in a tough position to proceed. The PL wanted more time to negotiate and DEQ refused. He noted again that negotiations were tough while the Town was entertaining, and it appears still is, allowing the increase in height.

Mayor Foreman noted this is all timing not entertaining. The PL can talk to the Town all they want and by doing that, it sent the signal the Town was not interested in the negotiations that were occurring. The 60 months means everything. He felt the matters were two very separate things and did

not think the 60 months was acceptable by any standards. He asked if Council wants 24 months whether DEQ will change that. He noted that when the PL came and spoke with him they did not mention anything about the fines or entering into the consent agreement. The PL had multiple movements going on at the same time.

Ms. Sanders pointed out this is a process that DEQ is negotiating with PL and is not an exclusive process for the Town. The Town has alternatives, if it chooses, in terms of dealing with the 195 feet that is completely separate from the DEQ process and available at any point that Council chooses to act.

Mayor Foreman asked his question again.

Mr. Faha noted that any comments made to DEQ would be treated with great respect.

Mayor Foreman asked if the 60 months was solid or negotiated with the landfill.

Mr. Faha explained that everything in the order was negotiated.

It was explained the consent order does not address the expansion and is to bring the landfill into compliance with the existing permit. It was explained that the consent order does not keep the landfill from expanding and would require a modification to the existing permit. The five years is the amount of time provided for the landfill to bring the waste down to the 195 feet. At the end of one and three years, the landfill is to have made progress and if those milestones are not met or any of the conditions of the consent order, action can be taken.

Mr. Brewer heard that the landfill bringing the height down to 195 feet in five years is not predicated upon the permit or application for expansion.

Mr. Doucette noted it was not predicated on the horizontal expansion, which is currently in house.

Mr. Brewer asked if DEQ was making it predicated on the debris being lowered.

Mr. Doucette explained it is DEQ's intention to always take the consent order as they comply with different parts of the agreement. What happened originally with the 2005/2006 consent order with the landfill was once they came into compliance with the issues and those issues that could not be complied with were placed in the permit. DEQ always tries to have an enforceable document, either a permit or consent order, so the facility knows how to operate.

Mr. Brewer asked when the PL applied for a permit for mining.

Mr. Doucette noted a permit was issued back in 2002 and was approved in a 2003 permit modification. It was reiterated and clarified in the 2010 permit modification and was referred as air space reclamation.

Mr. Brewer asked when the landfill applied for a permit to expand.

Mr. Doucette noted it was the April/May timeframe last year.

Mr. Praino noted that when the 1987 permit was issued it was not standard operation for a landfill to do mining. He asked how it came about without coming to the Town.

Mr. Doucette explained the 2003 permit modification was a major modification that was approved by the local zoning commission of the Town at that time.

Mr. Praino recalled, as a member of the Planning Commission in 2003, being told that was standard operating procedure for a landfill and why it was approved. He noted that the court order was for a specific area for a specific operation. He asked how that additional non-standard item, when it was issued, was grandfathered.

Mr. Doucette noted that was before his time. He has read the stipulation order and it does not address landfill mining.

Mr. Praino indicated it was because it did not exist.

Mr. Doucette noted it has always existed as a method of trying to recover more material.

Mr. Praino reiterated that it did not exist as a standard operating procedure.

Mr. Doucette noted it is a newer attempt to recover recyclables that were not previously pulled out of landfills.

Mr. Praino asked if that is or can it be permitted. This landfill is not a standard landfill. It is operating in a jar, a residential area, court defined illegal operation and basically spot zoning forced on by the State. It has specific operating orders and a specific permit, which was not modified until 2002. He asked how that could be permitted without coming through the Town like the request to vertical.

Mr. Doucette noted he would have to go back and look at the history.

Mr. Praino read the following excerpt from the consent order. "If Potomac wished to manage temporary stockpiles above 195 feet amsl after 60 months from execution of this Order, and the Permit has not been modified as stated in paragraph 6, Potomac shall submit an updated Mining Plan and Soil Management Plan to DEQ for review and approval." He read this to mean that if after 60 months the landfill is at 230 feet, according to the Consent Order, the PL will be going back and doing the same thing again, putting in for a modification, there are no penalties.

Mr. Doucette noted that the permit, as it is currently written, the 2010 version, it is very clear what the difference is between waste and soil. Everything currently on top of the landfill above 195 feet DEQ considers waste. The Soil Management Plan is an attempt for them to beneficially reuse this material by screening it, sieving it, and sampling it to make sure it meets the regulatory definitions of clean soil. The second part is the PL is only allowed to accumulate waste and material the PL is going to recover for a period of one year. There is a regulation for speculative accumulation that states 75 percent of that material has to be removed within one year. The landfill cannot stockpile forever and state that it

is just being done, so part of the Waste Removal and Soil Management Plan would show how they would handle it to keep it out of the waste.

Mr. Praino asked if the one year was part of the current regulation now.

Mr. Doucette noted it was.

Mr. Praino asked why DEQ is going five years then.

Mr. Doucette explained it was part of the agreement on the negotiations. It was discussed whether it would take one year or five years to remove it.

Ms. Washington understood the height was not part of the violation or what was discussed in the compliance agreement. It appears to her that maybe the height was used as a way to negotiate to get the fees DEQ wanted for the violations that were important. Five years seems like an awful long time. She did not think DEQ would have waited five years for the landfill to do something that was considered a real violation.

Mayor Foreman looks at the landfill as a business. He has heard the discussions from the logical to the emotional. He has always said treat the landfill like a business. If the landfill is in compliance and paying their taxes treat them as business. He was having a hard time with the violation, court orders, and the stipulations. The Town is asking them to comply with the court order. He read the following from a letter that Mr. Leake wrote. "Potomac Landfill strives to be a good citizen and has worked consistently to comply with laws and regulations, as well as, protect its neighbors and the environment." The landfill knew it was in violation 24 months ago and yet there has been no good faith in their actions to reduce the height violation to bring them within compliance. The height could have been reduced the entire time the landfill was in negotiations with DEQ. The landfill has not. The height could have reduced the entire time the landfill was in negotiations with the Town. The landfill has not. He is having a hard time with the 60 months.

Mr. Taber has tried to listen to the Council and gauge what the Council's position is on the landfill and the conditions of the proposed consent decree. On September 11, he sent an email to Council on what he heard to formulate into a response that will come out in the Council's name. He went over the following items that were contained in the email that will be Council's position statement.

(1). Whenever the proposed consent order says that the landfill must notify DEQ of certain events within a specified time frame, the Town should likewise be notified within those same timeframes.

There was no objection from Council to include this in the response to DEQ.

(2). The Town should object to the 60 month time period to remove currently stockpiled waste over the 195 feet as stated in the 1987 PWC Circuit Court Stipulation Order. It is the Town's position

that going above 195 feet for any reason is a clear violation of the stipulation order that should be remedied.

There was no objection from Council to include this in the response to DEQ with the timeframe not to exceed 24 months to remove the stockpiled waste.

(3). The Town should object to PL storing or reusing any soil outside of the waste management boundary set in the 1987 Stipulation Order. How can DEQ approve any Soil Management Plan that is in direct conflict with the Stipulation Order.

There was no objection from Council to include this in the response to DEQ.

(4). The Town continues to vigorously oppose any vertical expansion over 195 feet and this paragraph authorizes PL to continue to be in violation of the Stipulation Order if DEQ authorizes vertical expansion.

The Council wanted it stated that under the current court stipulation the Council vigorously opposes the landfill going over 195 feet.

(5). The Town objects to PL doing its own in-house monitoring of odor-related issues and would like to see an independent monitor with notices of all monitoring results reported to the Town immediately.

Council discussed having the PL hire and pay for independent monitoring that would be reported to the Town. It was suggested the independent monitoring be required during the compliance period to be provided to the Town, DEQ, and the PL. It was suggested that if the PL were to pay for the independent monitoring that there would still be influence over the company doing the monitoring since the PL would be paying the bill. The question came up as to how often monitoring was being done.

Mr. Doucette clarified that there are different timeframes for monitoring. The hydrogen sulfide is monitored three times daily, groundwater monitoring is done quarterly, and monthly or quarterly gas monitoring.

It was questioned whether the State regulations provide a mechanism that would require the PL to provide independent monitoring.

Mr. Doucette advised DEQ does not require third party monitoring.

It was suggested the Town train someone to do random sampling for monitoring of the hydrogen sulfide. It was noted this is possible and money could be found in the existing budget to perform the samples since the cost was minimal.

Mr. Faha clarified that DEQ is not restricted on what it asks for in order to come to a settlement and could be suggested by Council.

There was no objection from Council to include this in the response to DEQ.

(6). Leachate Treatment – this issue is the source of most of the odor and environmental issues, and it should be the Town’s position that PL has never properly dealt with leachate. The Consent Order should require a specific, detailed plan, with equipment in place at the landfill to pump and haul.

There was no objection from Council to include this in the response to DEQ.

(7). Mining – All mining operations should cease until there is a properly approved, acceptable mining plan.

There was a brief discussion explaining the PL has an operations plan and mining plans are currently being developed. It was mentioned the PL was never given permission to do mining.

There was no objection from Council to include this in the response to DEQ to include the verbiage, notwithstanding the fact the stipulation order does not allow for mining at all and recommended that the PL cease all mining operations.

(8). If the H₂S levels are above the limit and leachate is excessive due to whatever reason, all activities and receipt of waste and recycling should stop immediately until H₂S and odors are controlled and under the acceptable limit. Leachate should be pumped and hauled until the volume of excessive leachate has been reduced to an acceptable level.

There was a brief discussion about using the nuisance ordinance and authorizing the Town to take the position that the PL is in violation of the stipulation order with the height. This could tie things up in court for a long time. It was recommended any discussions on proposed litigation be handled in closed session.

There was no objection from Council to include this in the response to DEQ.

**IN RE: A. POTOMAC LANDFILL REQUEST TO EXPAND VERTICALLY
CONTINUED**

Ms. Reynolds asked why Council was entertaining this request while the PL has outstanding violations. She felt this would be setting a precedent. She noted there are rules and regulations in place for a reason.

Mr. Brewer agreed. He asked Sandra and Dennis Leake to attend the next meeting because Council would be discussing this and had some questions. One thing he was assured of was the landfill would be closed in 15 years. Currently there is no end in sight. With the 15-year timeframe there is, but he realizes there are current violations in place that have not been remedied. If Council gives the PL the ability to go higher what assurances will Council get that the rules are going to be followed. He would not be able to give the PL the ability to go up. The landfill is at a 3 to 1 slope and in order to go up it would be a 1 to 1 slope with dirt holding back dirt. He was assured there are other facilities that do this. He wanted some questions answered.

Ms. Forrester agreed that Council needed to have some questions answered in order to make a decision. She did not think Council should limit the ability of businesses to bring suggestions to Council or ask for feedback only if they are in alignment with other things. She felt this was two separate issues. If a business is in violation then handle the violations. Council can always say no for whatever reason. She did not agree with limiting the body to make a decision on something. There are other mechanisms to handle violations.

Ms. Washington noted the Town has been dealing with the landfill for a number of years. She was a little leery of the fact that all of a sudden the landfill wants to be this great neighbor and just so happens to be at the same time they are running into difficulties with DEQ. She asked where the landfill was when the Town was making complaints throughout the years and wanted to be a good neighbor and asking for ways for the landfill to become a better neighbor. She felt this was a great opportunity for the Town to get something out of the landfill that has never been gotten before. She just learned how DEQ operated and that they only go in periodically. She thought that with this type of business you would have to come in, at the least, every two years and show paperwork. She sees the compliance schedule providing a plan for having someone monitor and make some progress with the landfill.

Mr. Praino asked if an agreement was reached on all sides, permission was given to go laterally, and the business is sold, would the new owners have to follow the same stipulations.

Mr. Doucette agreed it would be based upon the way the permit is written and based on the consent order.

Mr. Praino asked if the landfill went up, did not go out, and expansion laterally was wanted would the new owners have to reapply.

Mr. Doucette noted it would all be dependent on the local governments zoning certification. The Part A siting permit, which was approved back in 1993, currently allows the landfill to go out the 53 acres horizontally. At any time, the landfill can ask for a permit modification; however, DEQ will not process that. The first thing that DEQ does is a completeness check. If the form is not provided the permit modification will not be processed.

Mr. Praino made some general observations about the possible effects of what would or could occur if the unlined cell, cell 3, were to go up with the leachate, additional weight, loss of light and view to certain parcels, and hydrogen sulfide.

Mr. Brewer asked if erosion and sediment was being monitored.

Ms. Sanders noted that there is an erosion and sediment control plan that is out of date and needs to be updated.

Mr. Brewer asked again if it was being monitored and not whether there is a plan.

Mr. Taber stated it is not being done.

Mr. Brewer pointed out the Town has the ability to do that under the stipulation order. He recalled that Marvin Wilkins was doing it when he worked for the Town.

Mr. Taber believed the Town has a consultant that does that and in 30 days the process can be continued.

Ms. Forrester pointed out this is not a tradeoff. It is not a matter of going up and not going out. The landfill may never go up and still expand out.

Ms. Sanders pointed out it could be contingent on an agreement for the landfill to go up.

Mr. Toney was not in favor of supporting going up. He noted that at one time the landfill was a stump dump that went to construction and demolition. He understood that someone was supposed to be monitoring the trucks to make sure that no hazardous waste was dumped.

Mr. Doucette noted the landfill has an unauthorized waste plan that requires them to do a significant amount of monitoring which was part of the 2003 modification. He explained that there is different monitoring done for a construction, demolition, and debris landfill. There has not been any detection of groundwater contamination above the detection limits. There are different phases of monitoring done. The first phase is for detection. If there is detection then it goes to the second level, which is assessment. If there continues to be exceedances, the tests are compared against Safe Drinking Water Act standards or ultimate concentration, which is a risk based standard. If those standards are exceeded it would move into corrective action where appropriate actions have to be taken to keep the groundwater from getting waters contaminated. The landfill is currently in the second stage. There have been some low level detection and certainly DEQ expects all landfills to find some metal or inorganics; however, the landfill has not exceeded any drinking water standards.

Mayor Foreman asked if Richard West, the Public Works Assistant Director, could take water samples from Cannon Ball Run Creek and Dewey's Creek.

Mr. Taber did not see a problem with doing that.

Mayor Foreman explained his current position is no, because he was led to believe that there would be some type of negotiations. The negotiations were for the citizens. He noted that the PL will negotiate with the courts and DEQ, but have made it clear they will not negotiate with the Town on any level. He initially wanted this tied to economic development because he thought that was what was discussed in his office over a month ago so that Mr. Leake could participate in the economic summit in November. It has been made clear that economic development has nothing to do with the proposal. Yet, Mr. Leake stood up and talked about two zones, one for residential and one for economic development. If the PL were going to change an order, he would hope the PL would come before the Town. He would

entertain going up but there is no negotiation process. The negotiations could be something as small as buying the homes out in Tripoli Heights or power washing them once a year. He was open to going up to 310 feet; however, negotiations have to be good for the citizens, the Town, and the environment. None of these three categories is being met.

Mr. Taber asked if there were any requests from Council for staff to do prior to the next meeting.

Mayor Foreman wanted to see the questions Council has asked submitted in two banks, one that staff can answer, and one that cannot be answered by staff. The matter will be placed on the next regular Council meeting for a vote.

C. SCHEDULE FOR OCTOBER TOWN COUNCIL MEETINGS – DAN TABER

Mr. Taber clarified that there are two Council meetings set for October that were moved back a week due to the potential conflict of the Virginia Municipal League conference. The regular Council meeting is scheduled for October 9 and the second meeting is scheduled for October 23, which is a work session that will include a joint meeting with the Planning Commission.

D. CONTENT AND FORMAT OF TOWN COUNCIL MEETING MINUTES – DAN TABER

Mr. Taber explained there have been very few minutes ready for approval. Included in the packet is what is actually required. He was giving some advance notice that the Town Clerk is engaged in so many activities including trying to index and find out about the Towns archives that the minutes will include only what the statute requires. The recorded disks will be used as backup should there ever be a question about who said what.

Ms. Forrester noted the Council took a vote to require the detailed minutes and asked if this change would require some kind of change on Council's part.

Mr. Taber advised a resolution would be drafted for the meeting on October 9 for further discussion and a vote.

E. RESOLUTION TO AUTHORIZE THE TOWN MANAGER TO SIGN AGREEMENTS WITH VDOT FOR TRANSPORTATION – THE MULTIMODAL PROJECT ON ROUTE 1 – GREG TKAC

Mr. Taber noted this would not involve the expenditure of any funds. This will simply expedite the management of the programs.

Mr. Tkac explained he was before Council two years ago requesting CMAQ (condition mitigation and air quality improvement) funds from the State and another grant was applied for the following year to fund the Multimodal Project Phase II. What was not asked at the time was to give the Town Manager the authority to sign the required agreement, which should have been requested. He was

notified through an email that this is a requirement. A resolution will be before Council for consideration at the October 9 meeting that will give the Town Manager the ability to have staff manage the funds.

Mr. Taber explained that once contracts are let out for this it will come back before Council for approval.

F. COMMUNITY DEVELOPMENT BLOCK GRANT FOR GINN MEMORIAL PARK PLAYGROUND EQUIPMENT – MORGAN BRIM

Mr. Brim noted the community development block grant (CDBG) deadline is October 10. With the second meeting now being a work session, it will push a resolution of support for the October 9 meeting. The CDBG allows the Town to apply for a grant for a project that would specifically relate to serving a low to moderate-income level population of 50 percent or greater. This was used previously to purchase the park. This particular application would be for park equipment in the amount \$60,000.

Mayor Foreman noted the grant that is being applied for has no matching funds required.

Mr. Brewer asked if this was State or County funded.

Mr. Brim noted it was through the County. He mentioned the Council will also have to fill out two forms, one is a conflict of interest, and the other is whether you have interest in real property within 2,500 feet of the project.

Ms. Sanders reminded Mr. Toney that he has to disclose or reclude himself because of where he lives in relation to the park.

G. GINN MEMORIAL PARK PHASE II – WILLIE TONEY

Mr. Toney explained the Ginn Memorial Park Committee was established in the Summer of 2011 to plan and make recommendations to the Council for park development. The members were himself as Chair, Councilwoman Barr as Co-Chair, Chief Ester of the Dumfries Triangle Rescue Squad, David Moss the Planner/Zoning Administrator, William O’Kelly Russell the Chair of the Planning Commission, Greg Tkac the Public Works Director, Debi Sandlin the Economic Development Director, Chief Robert Forker and Captain Rebecca Edwards of the Police Department, Richard West the Public Works Assistant Director. Others who contributed along the way included the Director and Assistant Director of the Boys Club, Dan Taber the Town Manager, who attended meetings to provide some clarity at times, and Christine Sanders the Town Attorney, who also attended meetings to provide clarity on issues when discussing the policy on fundraising. The Director of the Prince William County Park Authority also attended several meetings in support of and for clarity on the approach of dealing with the park. Public hearings were held to get citizen input about what was needed in the park and at all of the meetings the most constant term that resonated was safety and security. This was a big part of the

planning. It was accepted that the park would be developed as money became available. There in comes the phase process. Sitting on the group was an educational process for him because these were all experts who had varying fields of knowledge and when the time came, they spoke up and made sure that their input was in the planning process. It was Mr. Moss's idea to phase the park as money became available and Mr. Russell developed the concept plan for the park that saved the Town thousands of dollars. There have been comments or concerns about the amount of money that are being spent. He assured everyone the Committee has been quite judicious and very good stewards of the public's money. At no time did the Committee anticipate that the entire project would be solely funded by public money. The project started with an allocation of \$37,500, which was part of Phase I. The Committee met approximately two times a month to plan the development of the park. The plan was developed in phases. Upon completion of each phase, it was planned that the Committee would come back to Council, announce the completion of the current phase, and request permission to move to the next phase. The projected completion date for Phase I is November 1. After the completion, staff will come before Council to request permission to move on to Phase II. Phase II will include fencing around the entire park, additional playground equipment, and a temporary restroom facility. Funding will be spent very sparingly and he hopes to get permission to begin fundraising. The Committee wants to make sure each phase is doable and people will continue to see progress as the park is built out. Subsequent phases will follow to include and compose the development of a pavilion, a restroom with a security system, and ultimately a small amphitheatre. This project will have a major impact on the quality of life for the Town. The entire project will not be financed entirely by taxpayer's money. People have volunteered their time to ensure that this project gets the kind of attention it deserves. He thanked everyone who has worked with him.

Mr. Brewer asked for clarification on the temporary bathroom. He asked if an outhouse was being placed out there.

Mr. Toney explained that in Phase III bathroom facilities would be plumbed in. At this time, some port-a-johns will be placed in the park and maintained by the Town.

Mr. Taber explained a concrete pad will be placed, it will be located near the driveway to allow the service truck easy accessibility, and a fence will be placed around it to give it a nice appearance from the roadway.

Mr. Toney noted the aesthetics of the park has been a concern all the way. It is his firm belief that at the end of the day once this park is completed it will not only be something that not only Mr. Taber and his staff will be proud of, but each member of the Council will be proud to go to and take some pictures.

Mr. Brewer noted that chain link and split rail fencing was going to be put up. He asked if the park was going to be secured after hours.

Mr. Toney understood that the basketball court would be secure. The park will be a dawn to dusk park with signs indicating the park is off limits after dark.

Mr. Taber noted the fence on the three sides, the rear and two sides, was in direct response to citizen input.

Mayor Foreman wanted to make sure there was a clearly defined definition of what Phase II will be in a resolution that is adopted by Council. It was clarified that no one stated the money was misspent inappropriately, but there was different beliefs of what the Committee was doing and who was monitoring the flow. This will set the policy of going forward so that there is no confusion. He recommended everything be updated for clarity on Phase I and II.

Mr. Taber advised Council this would be presented to them at the November meeting to take action to bring the resolution forward.

Mr. Brewer asked if figures were going to be provided at the same time.

Mr. Taber explained an approximate amount of the cost would be provided.

Mr. Brewer asked why the lines for the bathroom facilities were not planned for prior to placing anything in the park.

Mr. Taber explained the idea of a pavilion with handicap accessible bathrooms is a considerable expense. He noted that Council might decide not to place a pavilion. A path for the utilities has been outlined and does not have an effect on the park being developed to this point. It is a matter of having a deliverable. A rest area and a pavilion could have been built and that would have been all that was there for two plus years. Council voted for Phase I.

Mr. Toney felt Mr. Brewer made a good point. He thought that maybe Council would want to have the pavilion in Phase II.

Mayor Foreman asked if the restrooms have to be tied to the pavilion or can a permanent restroom be placed.

Mr. Tkac approximated the cost to be \$110,000 for a restroom facility. He mentioned the expense for Public Works would be considerable to keep the restroom clean daily. The park will be monitored to see what type of people are using it and the types of activities that occur while not putting any strain on Public Works staff.

Mayor Foreman asked how much the port-a-john would cost.

Mr. Tkac noted it would run \$109 a month.

Ms. Forrester wanted to look at both options and the full build out, because that would provide office space. She is aware that the Town does not have the resources for a substation; however, the Council voted to purchase the property with the understanding that a substation would be there.

Ms. Sanders clarified that the grant precludes a substation at this time. The CDBG that was applied for was specifically for a park with no governmental buildings. If Council changes course now and builds a substation the funding will have to be paid back to Prince William County.

Ms. Forrester questioned park security not factoring into the park.

Ms. Washington was concerned with the security of the port-a-john. When she worked for Parks and Recreation there were port-a-johns that were unsupervised that were turned over and vandalized.

Mr. Tkac explained the fencing places it in a confined area that will not allow for tampering.

Ms. Forrester questioned why the Town cannot use its own funds and not grant money to place a substation at the park.

Ms. Sanders noted there is a five-year period.

Ms. Forrester did not understand how the grant could preclude the Town from spending its own money.

Ms. Sanders noted the grant applied for stated specifically that the money would be used to build a park and is enumerated in the regulations.

Mayor Foreman explained it will take a couple of years to accumulate enough money for a pavilion at which time it may be outside the five year timeframe and make sense to place a substation then. He thinks the Council was misled initially.

It was clarified that the Council wanted both options presented for the bathroom facilities.

Mr. Taber explained the funding available would not provide for a permanent bathroom facility.

IN RE: COUNCIL MEMBER COMMENTS

Ms. Washington thanked the Council members for approving having work sessions.

Mr. Praino mentioned that if the landfill were to go up that the dust would go out further. Most of the drywall has been removed; however, the landfill is still mining it. Chinese drywall is radioactive.

There was a brief discussion about Homeowners' Associations and the Town having no authority over them.

Ms. Forrester expressed concern over not having the work sessions recorded.

Mr. Taber pointed out that once a meeting is recorded it is a public record. The decision was made this meeting would not be recorded.

Ms. Sanders had many unanswered questions in her mind as to what a work session was going to look like. There are several issues about how Council would actually want to have a work session. It was not clear to her whether the meetings were being recorded or broadcast.

IN RE: ADJOURNMENT

Mayor Foreman moved, seconded by Ms. Reynolds, to adjourn the meeting. The motion carried by the following voice vote: Mr. Brewer, yes; Mr. Foreman, yes; Ms. Forrester, yes; Mr. Praino, yes; Ms. Reynolds, yes; Mr. Toney, yes; Ms. Washington, yes.

Minutes submitted by

Approved by

Dawn Hobgood
Town Clerk

Gerald M. Foreman
Mayor