

AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL, HELD ON SEPTEMBER 4, 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
Daniel Taber, Town Manager
Christine Sanders, Town Attorney

IN RE: CALL TO ORDER

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 THE MINUTES (NONE AVAILABLE)

IN RE: ADOPTION OF THE AGENDA

Mr. Taber requested that Item XIII-B, CDBG Grant for Ginn Memorial Park, be removed from the agenda to be discussed in two weeks.

Mr. Brewer moved, seconded by Mr. Toney, to adopt the agenda as amended. 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.

IN RE: APPROVAL OF THE CONSENT AGENDA

Mayor Foreman moved, seconded by Mr. Brewer, that the Consent Agenda be adopted as presented. The motion carried and the following resolutions were adopted 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.

**RESOLUTION PROCLAIMING SEPTEMBER 3 – 7, 2012
PAYROLL WEEK**

WHEREAS, the American Payroll Association and its 23,000 members have launched a nationwide public awareness campaign that pays tribute to the more than 156 million people who work in the United States and the payroll professionals who support the American system by paying wages, reporting worker earnings and withholding federal employment taxes; and

WHEREAS, payroll professionals in the Town of Dumfries play a key role in maintaining the economic health of the Town of Dumfries, carrying out such diverse tasks as paying into the unemployment insurance system, providing information for child support enforcement, and carrying out tax withholding, reporting and depositing; and

WHEREAS, payroll departments collectively spend more than \$15 billion annually complying with myriad federal and state wage and tax laws; and

WHEREAS, payroll professionals play an increasingly important role ensuring the economic security of American families by helping to identify noncustodial parents and making sure they comply with their child support mandates; and

WHEREAS, payroll professionals have become increasingly proactive in educating both the business community and the public at large about the payroll tax withholding systems; and

WHEREAS, payroll professionals meet regularly with federal and state tax officials to discuss both improving compliance with government procedures and how compliance can be achieved at less cost to both government and businesses; and

NOW THEREFORE BE IT RESOLVED, that the Town Council acknowledges the week in which Labor Day falls, September 3 through 7, 2012 as National Payroll Week, Council hereby gives additional support to the efforts of the people who work in the Town of Dumfries and of the payroll profession by proclaiming the first full week of September Payroll Week for this Town.

A RESOLUTION TO APPOINT THE BUILDING OFFICIAL FOR THE TOWN OF DUMFRIES

WHEREAS, *Town Code §14-3(a)* requires the Council of the Town of Dumfries to appoint a Building Official for the administration and enforcement of the Virginia Uniform Statewide Building Code (USBC); and

WHEREAS, the Council of the Town of Dumfries now needs to appoint a Building Official for the Town; and

WHEREAS, Greg Tkac, the Town of Dumfries Director of Public Works, together with approved Town Building Code consultants who are supervised and overseen by Mr. Tkac, are duly qualified to administer and enforce the USBC; 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 4th day of September, 2012, that Greg Tkac be hereby appointed as the Building Official 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 Buildings and Building Regulations of the Town.

IN RE: CITIZEN COMMENT PERIOD

Nancy West thanked Council for placing on the agenda a discussion on establishing a memorial in honor of former Mayor, Fred Yohey, who passed away November 6, 2011. Several of his high school friends who live in Pennsylvania generated the idea. She thanked Mr. Toney for his support and bringing

it forward. She also thanked Aileen Streng for an article she wrote in the News and Messenger. She has gotten quite an outpouring of public support since the last meeting when she spoke about setting up a memorial fund. She suggested that once the funds were received and the time is right that something be placed in Ginn Memorial Park.

Dorothy Dye asked if the new law applied to the community yard sale that is held in Williamstown. She mentioned that they try very hard to keep Williamstown a neat clean neighborhood. She noted that there are curbs that still need to be painted. In Fort Sumter Court by the bus stop, once it snows and is plowed, there will be a huge hole. On the same road as you go in on the left hand side, there is an 11 x 9 x 5 hole on the downgrade where the handicap ramp is located.

Mayor Foreman asked Ms. Dye to get in touch with the Town Manger and Morgan Brim, Zoning Administrator, regarding her concerns.

Joyce Stewart asked whether the fence between Williamstown and Ginn Park was still going to be installed.

Mr. Taber explained the fence is proposed in Phase II, which still needs approval.

Ms. Stewart noted that there is only one light on Kearsarge Dive and asked if another could be installed. She read on the website that renters are supposed to register with the Town. She knows of one individual registered and asked why something has not been done about that.

Mayor Foreman advised that the Town Manger would look into those things and get back to her.

IN RE: MAYOR'S COMMENTS

Mayor Foreman thanked the citizens of the Town for all of their input to Council and staff on the Potomac Landfill, Ginn Park, etc.

IN RE: STAFF COMMENTS

A. TOWN MANAGER – DAN TABER

Mr. Taber went over the following items.

- ✓ Over \$66,000 has been collected the last month and a half in delinquent taxes.
- ✓ The refunding of the 2003 bond is complete and will save \$55,964 on the remaining debt over the life of the bond.

B. CHIEF OF POLICE – ROBERT FORKER

Captain Rebecca Edwards went over the following items on behalf of Chief Forker.

- ✓ National Night Out was held August 8. The McGruff Motorcade visited 10 communities and stopped at five community events.
- ✓ Brian Saul, ECPI University intern, completed his externship with the Police Department. He designed five informational pamphlets dealing with things such as

juvenile curfew laws, reporting crime, and recruiting that are of a professional grade and will be distributed throughout the community.

- ✓ All Officers received training in recognizing and enforcing illegal cigarette trafficking.
- ✓ Applications are being taken for the vacant Officer position until September 14.

C. DIRECTOR OF PUBLIC WORKS – GREG TKAC

Mr. Tkac went over the following items.

- ✓ The streetlight for Hampstead Landing will be installed within the next 90 days.
- ✓ He mentioned there was money earmarked in the Capital Improvement Plan (CIP) for the streetlight requested on Kearsarge Drive in Williamstown.
- ✓ The Virginia Department of Transportation (VDOT) is committed to installing a crosswalk at the Graham Park Road at Route 1\Fraley Boulevard just south of the intersection if the Town installs an ADA receiving ramp and an adequate sidewalk to the McDonald's property. McDonalds has committed to constructing the connecting sidewalk.

Mr. Toney asked if there have been any follow up discussions about closing the northbound egress to the McDonalds.

Mr. Tkac explained the egress point has been slated to be closed as part of the intersection improvement project.

Ms. Washington asked if there was a timeline on the various crosswalks and sidewalks discussed to be installed.

Mr. Tkac noted a letter was mailed out last week to VDOT. There have been some disagreements in regards to pedestrian access at some of the locations.

Ms. Washington asked if all the projects were trying to be done at the same time or if they were prioritized.

Mr. Tkac noted the Multimodal sidewalk project is in the CIP and money has been set aside. Staff wants to get the secondary crossings installed as soon as possible.

Mr. Taber clarified that Ms. Washington was asking about the crosswalk at McDonald's and it being the priority.

Ms. Washington was glad to see that pressure was being placed on VDOT and McDonald's and wanted to see that pressure continues.

Ms. Reynolds wanted to know if there were any temporary plans to put some kind of sidewalk at Possum Point Road and Route 1\Fraley Boulevard where the bus stop is located.

Mr. Tkac indicated that it is the first priority in the Multimodal Project, Phase II. He explained that part of the phase would include bus shelters that are placed in locations where they are both needed and safe, which that one is neither. He has met with Potomac and Rappahannock Transportation Commission (PRTC) and the Town's consultant and they are reviewing and analyzing the ridership at that location.

Ms. Reynolds was concerned with a sidewalk since there are people standing right there when you make a right turn off Possum Point Road. She asked if there was a timeline for the sidewalk project and if not whether Council could be provided one.

Mr. Tkac indicated he would put one together once he had proper authorization from VDOT to proceed.

Mr. Brewer asked if changes were being made to the invitation for bid (IFB) process for the Tripoli Boulevard Project.

Mr. Tkac explained that the IFB could go out as long as the Project is not advertised before the utilities are clear. This should allow for the start of construction in early February instead of mid April given nothing comes up.

Mayor Foreman asked that the report come back with the times that the bus stop is being utilized at Possum Point Road. He noted that there definitely is a need for a streetlight for Williamstown, but the streetlight for Hampstead Landing was done all wrong. He spoke with Corey Stewart, Chair to the Prince William County (PWC) Board of Supervisors (BOS), and Maureen Caddigan, Potomac District PWC BOS, about the appearance of double taxation. The Hampstead Landing streetlight should have been attached to the bond, which was not caught before it was released. The money was never in the budget. He went to PWC to get it and received a letter back that the Town has a streetlight program, which the Town does not. It should have fallen under the County. Money was set aside to purchase the streetlight. He questioned what was said about there being a streetlight program. He explained that the Town should be taking money that is being paid to the County, working staff to staff asking what kind of program is within the County, what are the requirements, and then take it from there. The Town should not have to use tax dollars being paid to the Town when the taxpayers are paying \$1.21 to PWC. The Town should have equal footing with every other community for streetlights. He wants PWC staff to tell the Town staff no and the reason. If Council or the Mayor needs to talk to PWC BOS's then it can be done from there, but he did want to give the appearance that the Town has a streetlight program. Is there money in Public Works? Yes. Can it be used for certain things? Absolutely. This was not in the budget and if it is then it needs to be in the budget narrative that three or four lights will be placed a year.

Mr. Taber understood that each PWC BOS has a certain amount of money to fund streetlights. He has no idea what the process is for the program or the selection. The Hampstead Landing light was a safety issue. Since the streetlight could not be gotten through PWC, Council discussed the matter, and there was money available to place the streetlight. However, under no circumstances would a streetlight be installed until such time that Council authorized it and there would be some criteria set up that Council would adopt. He was hearing that staff is to go through PWC and return back to Council what was determined.

Mayor Foreman wanted to know when the last time was the Potomac District BOS placed a light in the Town. He asked how many property owners received offer letters for the Tripoli Boulevard Project.

Mr. Tkac advised there are 37 property owners.

Mr. Brewer noted that the streetlight program fell under the BOS's discretionary funds, which are no longer available unless there was another line item designated.

Ms. Washington questioned whether a couple of the steps in the Main Street Intersection Project could be combined into one month, for example, having the advertisement ready while awaiting the construction approval.

Mr. Tkac explained what was not being shown in the timeline was all the extra steps that are required, for example, public hearing, comment period, Council approval, and having to send things to Richmond.

Ms. Washington mentioned coming in to talk with Mr. Tkac to get an idea of what the process is that is required.

D. DIRECTOR OF COMMUNITY & ECONOMIC DEVELOPMENT

Morgan Brim, Planner/Zoning Administrator, went over the following items.

- ✓ To date there have been 81 Zoning Violations, a majority of those have been abated by working with the property owner.
- ✓ The Planning Commission (PC) is looking at numerous text amendments.
 - B-1, B-2, and FBO/1 Zoning Districts
 - Sign ordinance – temporary signs for religious institutions and non-profit organizations
 - Food vendors – an Option 2 will be provided that will allow food vendors with a recommendation for denial or approval
- ✓ Town Center Project – staff is working with applicant to get an update to the Conditional Use Permit.

- ✓ Applicant driven text amendments dealing with the Town Center Project are being worked on.
- ✓ A Conditional Use Permit has been received for the Mathews Center for Autism (Pillar Church).
- ✓ The Architectural Review Board is looking at the Design Guidelines.
- ✓ Work continues on a CDBG grant application to be discussed at the next Council meeting.

Mr. Toney asked if Mr. Brim issued violation notices.

Mr. Brim noted that he would for zoning violations. He indicated Public Works and building nuisances are separate.

Mr. Toney asked administration a couple of weeks ago to look into the appearance of Main Street since a couple of the lots are overgrown. He asked Mr. Brim if he followed up on it.

Mr. Brim explained that he could only file violations under Section 70 of the zoning ordinance and he believed what Mr. Toney was asking about fell under Section 62. He noted that Public Works recently issued several notices.

Mr. Tkac noted that Main Street was being made the priority and that violation notices have gone out.

Mr. Toney asked if there would be a difference in the appearance within the next month.

Mr. Tkac indicated that was what staff was working toward.

Mr. Brim explained that for a nuisance, which high grass would fall under, there is a 10-day period for the nuisance to be brought into conformity. If it is not done then the Town can abate the nuisance and mow the grass.

Mayor Foreman asked who handled trash around businesses.

Mr. Brim indicated that was Public Works.

Mayor Foreman said he would speak with Mr. Tkac later.

Mr. Brim mentioned that later on the agenda is a discussion on the civil penalties section that will provide a little more enforcement to what can be done. Currently there is a waiting period of 30 days before taking action. This will allow staff to bring property into conformity a lot faster than what code allows now.

E. DIRECTOR OF COMMUNITY SERVICES – CYDNY NEVILLE

Ms. Neville went over the following items.

- ✓ She congratulated the Summer Youth Employment Program participants noting it was a pleasure working with them. She mentioned that they were interested in an alumni program next year.
- ✓ Senior Luncheon will be held September 21.
- ✓ There will be no Farmers Market this Saturday since the Fall Festival will be held. There will be 56 vendors, a plethora of games and prizes in the kids' corner, wine testing, and a full talent competition for both youth and adults. It will be from 10 a.m. to 5 p.m. behind Town Hall in Garrison Park.
- ✓ There will be two positions posted for the Dumfries Cares mentoring program. These two positions will be funded by a grant received from the Department of Criminal Justice Services.

Mayor Foreman mentioned that the youth in the summer employment program should see a resolution or ordinance from the idea or the suggestion period, see how it is developed through the Town staff, see how the background is formed on it, then talk with and interface with Council, and then follow it through to a vote. The interns apply, talk about how they want to see how local government works, and Council works but the interns do not interact with them. There needs to be something on their syllabus where they can see how an ordinance, resolution, or idea takes shape, which will give them dialogue with the Council other than just walking up and talking to them. All too often Council sees the interns at the end of the program.

Ms. Neville wanted to see that as a component of the program as well. She wanted to see some shadowing done, mentoring done, and some more engagement with that. She noted that Ms. Washington mentioned a mock Council meeting. She would be looking for more funding in order to have more days in each week or a six to eight week program to allow for more opportunities.

Ms. Forrester mentioned it was the understanding of the committee that worked the program that each Council Member would be assigned a mentor. Each intern would research an assigned topic, and at the closing program do a mock Council meeting where a vote would be taken on an issue. She was not sure what happened to that.

Mr. Toney liked the idea of building a presence for the Town. He read the following excerpt, "... it will be expected for citizens and those in surrounding areas to look to Dumfries first when it comes to finding family friendly activities, festivals to enjoy, community service events and programs."

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

Mayor Foreman met with Candidate for Congress Chris Perkins on Friday, August 31, and discussed the following items.

- Route 1
- Quantico Bay
- How there needs to be some sort of mechanism that the Town's plans compliment the County's plans, which compliment the State's plans, and the State's plans compliment the Congressional or Federal plans.

IN RE: ACTION ITEMS

A. DISCUSSION/DECISION ON AMENDING SECTION 70-2 OF TOWN CODE TO ALLOW THE ZONING ADMINISTRATOR TO ISSUE CIVIL FINES IN ACCORDANCE WITH STATE CODE §15.2-2209 – MORGAN BRIM

Mr. Brim was before Council asking for a motion to allow the Planning Commission (PC) to initiate a text amendment allowing the zoning officer to issue civil penalties for zoning violations. State Code § 15.2-2209 civil penalties for a violation of the zoning ordinance provides localities the ability to issue civil penalties for specific zoning violations. This would require a violation schedule of the specific violations that staff could issue a violation. For example you could issue a violation for parking on grass or an unimproved surface, for signage being up without a permit, flashing signs, for not having valid certificates of occupancy, or anything that falls under Chapter 70 of the zoning ordinance. Surrounding jurisdictions use this as a means to bring about compliance quicker. A ticket would be issued, it would provide a 30-day window to bring the violation into compliance, this is also the appeals period, and if an appeal was not made or the violation was not abated, the zoning administrator would be allowed to issue a \$200 ticket. It has been found that the \$200 threshold places enough bite or sting to it that a property owner is more willing to abate the violation a lot quicker. If the fine is issued, not abated in the 30 days, then after ten more days the fine would increase to \$700, adding an additional \$500, which would continue up to a maximum of \$5,000. If it got that far, the Town would take the individual to court, and the court would enforce the payment of the \$5,000. It assists in having small violations easily corrected. He explained the process now is if a business has trash around the receptacles that are not being enclosed a violation is issued. If the violation is not abated in the 30 days then there is a long drawn out court process that the Town has to go through, so it takes a long time to bring about simple abatement to these issues. He explained the motion would allow the PC to develop a schedule of certain zoning violations.

Mr. Taber pointed out that if the violation is abated in the 30 days there is no fine involved.

Mr. Brewer asked if a fee schedule was being developed.

Mr. Brim explained it would be a schedule of violations. He noted State Code sets the fees and when the fee schedule is updated, the same fees will be added. The State Code language would be identical in the zoning ordinance.

Mr. Brewer indicated that it was not necessary to have a fee schedule then.

Mr. Brim noted that it would be in one location. He recommended putting it in the fee schedule even though it will already be in the zoning ordinance.

Mr. Brewer indicated that Council needed to see the fee schedule in order to adopt them at the same time.

Mr. Brim agreed.

Ms. Forrester wanted to see what the fees and violations are that would apply.

Mr. Brim explained that there are a few minor violations that are taking a lot of time so staff called around to other jurisdictions to see what they did to encourage compliance. The localities that have been successful have adopted that section of State Code.

Ms. Washington asked why the Town does not notify both the property owner and the tenant. She agreed that Council needed to see the fees and what violations were being considered.

Mr. Brim noted that typically both are notified. He explained that actually both get the notice; however, the violation is issued to the person who has created the violation. Usually the tenant creates the violation. Notifying the owner sometimes assists in getting compliance sooner.

Mayor Foreman understood what staff was requesting but he was hearing that Council wants to see the language and fees before approval. He asked if the motion would be to amend the zoning language and bring the fee schedule to Council for review.

Mr. Brim noted the text amendment would go to the PC and the fee schedule would be done at the Council level.

Ms. Sanders explained the appropriate process would be to refer the matter to the PC for a recommendation to Council. Obviously, Council would control the fee schedule but any change to the zoning ordinance requires the PC review and vote within a certain period then it comes back to Council.

Mayor Foreman was hearing that a motion was not needed.

Ms. Sanders noted Council could pass a resolution to direct staff to initiate this with the PC, develop it, and bring it back in a timely fashion. She recommended a resolution.

Mr. Taber noted it is cleaner and there is no doubt about what Council wants if it is done in a resolution format.

Mayor Foreman wanted to see both the recommendation and the fee schedule come back at the same time.

Mayor Foreman moved, seconded by Ms. Washington, to send to the PC the request to initiate a text amendment to section 70-2 and when the recommendation comes back the fee schedule changes be presented too. 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.

IN RE: DISCUSSION ITEMS

A. POTOMAC LANDFILL – MAYOR FOREMAN

Mayor Foreman noted that on August 21, 2012, Dennis Leake from Potomac Landfill (PL) presented to Council two choices for continued operation.

1. Current operations in accordance with the Circuit Court of Prince William County VA Stipulation and Order dated December 22, 1987.
2. Allow for Vertical Expansion.

This is on the agenda for Council to discuss concerns and provide questions to staff regarding operation of PL so that staff can record Council questions, coupled with concerns and questions from citizens during the public hearing tentatively scheduled for September 10, 2012. Responses will be the basis for agenda topic on September 18, 2012.

Mr. Brewer noted questions were submitted to the Attorney, which he has not received any answers to yet. In order for PL to go up, he asked if it was necessary to make a change to the stipulation order.

Ms. Sanders noted there would be a prerequisite to amend the stipulation order.

Mr. Brewer asked if the stipulation order included an initial timeframe that dictated the opening and closing of the PL.

Ms. Sanders noted that was correct and depended on how much debris was being taken in.

Mr. Brewer had discussions with Burwin Reed from the PL. One of the things that the PL wants to do if going up would be a one to one slope. He had some reservations about that. Dirt is being used to hold back dirt. During Dennis Leake's presentation before the last election, Mr. Leake indicated that the water authority had discharged 1.8 million gallons on their property in addition to the rainfall that year. He wanted to know if PL has made any type of emergency preparations for anything like this, because as Mr. Leake indicated that if the actions were not taken that were took the Town would have seen flooding like it had never seen before. This scares him and it scares everybody in Tripoli Heights. He wanted to see some kind of emergency preparation plan in place before any of this stuff is brought to Council for approval. He asked if the Town was conducting any type of erosion and sediment control inspection.

Ms. Sanders noted that there is an erosion and sediment plan in place.

Mr. Brewer knew there was a plan in place. He wanted to know if any inspections were being conducted.

Ms. Sanders was not aware of any.

Mr. Brewer pointed out the Town has the ability to do it but it is not being done. He asked Mr. Taber if someone could be designated to conduct inspections for erosion and sediment.

Mr. Taber indicated that could be started immediately. His research has found that it looks like the last plan was from 2006, which probably needs to be updated too. He confirmed with Mr. Tkac that it could be done and a report would be given in 30 days.

Mr. Brewer, according to what Mr. Leake stated, heard that if the PL was to go up to 310 feet, that the PL would be closed within 15 years.

Ms. Sanders was not sure that was how the letter reads. She noted that the letter discussed closure within 15 years of necessary approvals. It was a little unclear to her what that meant.

Mr. Brewer asked for some clarity about that.

Mr. Taber noted that several Council Members have responded to him with questions and there might be more questions depending on what happens tonight. He explained that some of these questions deal with issues that require a level of expertise that Town staff does not have. One example is the question of whether there would be more odor going up rather than out. In order to answer that staff would have to contact an expert, a consultant through a contract, to get those kinds of answers. He mentioned that Council might have to approve funding that has not been budgeted to cover that expense.

Mr. Brewer asked if the collection points and other things of that nature are capable, in the existing condition, to carry another 100-feet of debris.

Mr. Taber would submit that question.

Ms. Reynolds wanted to know if the PL had any outstanding violations.

Ms. Sanders believed the PL was in negotiations with the Department of Environmental Quality (DEQ) about notices of violation that were issued last Fall and Winter.

Ms. Reynolds questioned talking about expansion when the violations were not resolved.

Ms. Sanders explained the PL has a pending application before DEQ to expand that was submitted May 2011. She understood that DEQ was not going to evaluate or act on it until the existing violations on the property were resolved.

Ms. Washington was concerned once a decision is made, one way or the other, what the guarantees are that go along with it since Council is looking at development that can take place for the Town. She was also concerned with all the problems that the Town has experienced with the PL. She personally has not had that many problems, but with talking to the citizens, there is a runoff problem,

severe odor problems, and wood roaches. She noted that in order to do any development around that area something has to be done. She did not see anyone wanting to sit in a restaurant or business office with the type of complaints she has heard. She wondered if this could be done then, why it cannot be done now. There have been complaints about these things for years.

Mr. Taber noted that it was obvious from the letter received from the PL that there are no guarantees about future development. Tying in any decision made to future economic development is a very difficult path to go down because it cannot be predicted. In reading into PL response, they are not going to put a million dollars worth of improvements on the potential that 12 to 15 years from now they may be able to develop that property. He noted that would come at a time as PL continues to move forward. His recommendation is that the development piece not play a role in the decision Council makes. A lot has been stated about future development and plans and it is difficult to guarantee anything along those lines. The only thing that can be depended on is that the Business License and Professional (BPOL) figure paid by the PL will stay stable. If the PL goes up instead of out it may increase a little bit based on the total revenues taken in. Other than that, it is very hard to predict anything. The wood roaches and the odor are things that staff would need input on. The PL has done something since the rain event because the complaints have gone down significantly. One of the questions he can pose, if Council goes in that direction, is to explain what has been done and is there anything more that can be done to control the odors. He noted that the wood roaches were new to him.

Mr. Praino felt Council needed to know if the discussions were around two or three parcels of land. The original plan in early 2000 was to close up the landfill and the surrounding area but the company was going to retain the portion along Highway 95.

Mr. Taber thought that initially it was probably required as part of the buffer area for the PL as it exists. He recollected that there was talk at one time to make that area commercial; however, he did not believe that VDOT would grant access anywhere along the property and access on Route 234 is very limited.

Mr. Praino was not referring to a business development. He indicated if the area was kept, it could be used for a material recycling facility, or something similar that could go on indefinitely.

Ms. Sanders noted the PL is currently recycling onsite.

Mr. Praino was aware of that and is strictly hand sorted.

Mr. Taber pointed out it was not a permanent facility.

Mr. Praino wanted to know if the PL would be keeping that property along with the other parcels along Fairfax Street to use for access.

Ms. Sanders was not aware of any plans to access the site other than from Green Tree Lane.

Mr. Praino indicated that would be Green Tree Lane. He was referring to once everything was closed and just that site remained there are still many uses that could be placed there that would affect the community.

Mr. Taber would research that to try to come up with an answer.

Mr. Brewer noted that the wood roaches are there. He spent over \$400 trying to get rid of them. He read in the packet that the PL was researching the idea of a tire recycling facility.

Mr. Sanders advised it was in the stipulation order that the PL can do that.

Mr. Brewer noted that this was brought up back in the mid to late 80's and was turned down for a tire recycling facility.

Mr. Taber believed that it was authorized under the stipulation order from 87.

Mr. Praino thought it was with proper zoning.

Mr. Toney thought that complying with DEQ regulations was of utmost importance since they are the watchdogs of the PL. He asked what other violations are on the books and how long have they been there. He wanted to know how long it would take to get to the optimum height of 310 feet. He asked if this could be done in ten years with the current level that the PL is at and would the PL stop then.

Mr. Taber understood that a certain number of tons are coming in everyday while mining out a certain amount every day. Whatever is mined out, minus what is coming in, would be the additional fill that goes into making up the existing landfill. He believes he saw some statistics on the amount that can be mined and the amount that can be brought in. He would do a little research and get back to Council on what those numbers might be. He noted that it needs to be identified what closure in 15 years truly means.

Mr. Toney asked what capping was and what that would entail.

Ms. Sanders explained the process is negotiated between the PL's owner operators and DEQ. She noted that even though the site may be closed there still needs to be monitoring done over the years. She understood that if no further expansion took place, laterally or vertically, and no more debris was brought in that the mining could continue for another 15 to 20 years. The current violations that she was aware of with DEQ deal with inadequate cover, excess height beyond the 195 feet, odors, and problems with leachate or runoff.

Mr. Toney pointed out that even if the landfill closed, and after the 15 to 20 years, the land may still not be any good for development. He asked if there were any changes anticipated in the operating hours.

Ms. Sanders was not aware of any.

Mr. Taber indicated all these questions would be part of the letter staff will draft to the PL in the next couple of days.

Mr. Toney recalled these questions came up when the Planning Commission was discussing the matter.

Ms. Sanders believed that the PL presently operates five and a half days and she was not aware of any proposed changes to that.

Mr. Toney restated that the two things that jump out at him are the capping and the violations. He thought there might be a conflict there if part of the violation is height and the PL is asking to approve going up.

Mr. Taber mentioned there might be a proposed consent agreement coming in the next several days that will help Council understand some of the questions being asked. He told Council he would get it to them as soon as it came out.

Mr. Toney knows that there are no hazardous materials being buried there.

Ms. Sanders agreed that hazardous materials are not allowed to be buried. She noted it is not known what is exactly in the PL. The PL was previously owned so she was not sure what was there and was not sure anyone else really knows either.

Mayor Foreman stated this is a quality of life issue. This is a quality of life for the residents, for the business folk, and folks who frequent the Town. He viewed this as an opportunity to negotiate an agreeable arrangement between the Town and a business entity. It did not matter if this was the PL or any other business in Town. When someone has a court order and they state they are going to operate within the court order and are asking for consideration or concessions to do something else from the Council he saw this as an opportunity to negotiate an agreeable arrangement. He would say this same thing to any business owner. He asked some questions of Mr. Leake, an email was exchanged, and a letter was sent back to him. Economic development has been talked about in the Town and one of the things proposed was there was property owned by the PL that was available, which he saw as an opportunity for an economic and a residential zone. He was under the assumption that the PL would develop the economic and residential zone. As it is currently written there is no incentive for the PL to develop either of the two parcels being discussed, which would mean a total concession of 310 feet with no additional revenues or residential and economic zone development now, 15 years from now, or 30 years from now. Currently there is no infrastructure in those zones. He understands it is expensive to put infrastructure in to develop that area and that is an inhibitor. His question is what incentive the PL needs to develop that area. If 310 feet is going to be the height that is required there has to be something tied to economic development and the development of those other properties. He read the following response

from Mr. Leake. “It is important to emphasize as I have expressed to you in our conversations that PLI is unwilling to agree to additional controls or limitations on its operations as a condition for vertical expansion beyond those that are applicable to its present operation.” In a nutshell, the PL wants its 310 feet and under these conditions or they will just continue to operate as they are now. He cannot vote for 310 feet unless residential and economic development is tied to it. His position is there has to be an incentive, some leverage, and a partnership in this effort to allow the PL to expand. He did not want to go down the road that happened a few years ago. He did not want to get to the end of forming a committee, hiring consultants, field questions back and forth, hold a public forum, and hold another meeting to try to meet the November deadline to be told at the end, we accept nothing you have to say other than the 310 feet. This commitment goes both ways. The future of the Town is tied to economic development. The future of the Town is tied to the PL. Concessions have to be made on both sides. The Town knows what the court order says and the Town can live within that court order. When someone comes in and asks the Council to consider going up 310 feet that means negotiations go both ways. He wants to hear that PL is willing to negotiate and is not going to waste the Council’s time and the taxpayer’s money.

Ms. Reynolds was concerned with the current violations. Even if Council agrees to 310 feet, the PL is still in violation. Council owes it to the citizens to make sure that they live in a place where they are comfortable and their quality of life is not being sacrificed.

A public hearing on this matter is tentatively scheduled for September 10 at 6:00 p.m. in Council Chambers.

B. ESTABLISHING A MEMORIAL IN HONOR OF MAYOR FRED YOHEY – VICE MAYOR TONEY

Mr. Toney stated that everyone knows Fred Yohey. He served several terms on the Council. He was on Council when Mr. Toney started on the PC in 2002. He ran for Mayor and was elected by the citizens. In his second term as Mayor, he passed away. Many private citizens have expressed a desire to create a memorial for Mr. Yohey for the impact he had on their lives. He recalled an inscription from a tombstone he saw in 1965 as follow. “Listen my friend as you walk by as you are now, so once was I; as I am now, soon you will be; prepare for death because you will follow me.” Did Mr. Yohey give his life for the Town, no; however, in the wake of personal disappointments and challenging health issues Mr. Yohey did give his life to the Town.

Mr. Toney moved, seconded by Ms. Reynolds, that a line item be started in order to receive donations to place a memorial, hopefully in Ginn Park, to honor former Mayor Yohey.

Mr. Brewer pointed out there has been eight Mayors who have passed and nothing has been done for them. In 2003, Council passed a motion to purchase Dumfries flags for dignitaries who passed away. He knows that they were purchased. He felt if Council is going to do for one it needs to be done for all. He wanted more information on exactly what was being purchased. He felt it was just like the park not being planned and money being spent toward what. He wanted more details about what exactly is going to be purchased for this memorial or memorials.

Ms. Forrester thought it was good to look into memorializing past dignitaries; however, she saw that as a separate issue. She suggested a friendly amendment to the motion to clarify that this memorial will be funded solely by private donations. Also, consider once the funds are collected that Council look at how much funding is there and make a determination as to what would be the best expenditure.

Mr. Toney agreed.

Mrs. Reynolds understood where Mr. Brewer was coming from. She saw the issues being separate since funds are already being received and a commitment is being made for those funds.

Mr. Praino felt this was a little different from a general memorial being that friends and citizens put it forth and not the Town.

Mr. Brewer asked, if it has no impact on the Town, why the private individuals do not manage it. He did not feel the Town should be managing the money for it.

Ms. Forrester did not know how citizens could get together, collect money, and place a memorial on Town property without Council's permission and her understanding as to why the Town is heading it up.

Ms. Sanders noted managing the money could be done privately, but in order to place a memorial on Town property that would require the Town being involved.

Ms. Forrester did not think that someone would be willing to donate money not knowing whether the Town was going to approve placing a memorial.

Mr. Praino did not think this would have much of an impact on staff time and would show that there is a commitment from the Town to place a memorial.

Mayor Foreman noted that there is already a mechanism in place for collecting donations. The website has a donation sheet that can be filled out to go to the Yohey fund. He asked if the motion was to only establish the collection of the money.

Mr. Toney indicated that the memorial would be placed in Ginn Park.

Mayor Foreman explained that was why he asked because he has heard two motions. There are other places in Town that a memorial can be placed. It was suggested to him to have one at the top of Rose Hill Circle where Mr. Yohey lived.

There was a brief discussion on how the memorial would be maintained. If there were going to be flowers what would happen once the funding was gone. It was pointed out the decision on what would be placed, like a bench, would be made at a later time and that there was no mention of flowers. It was felt that there is a difference between a memorial and a park bench.

The motion on the floor to create a line item in order to receive donations to place a memorial for former Mayor Fred Yohey, to be funded solely by private donations, and once collected a determination be made on what to place in Ginn Park carried by the following roll call vote: Mr. Brewer, no; Mr. Foreman, no; Ms. Forrester, yes; Mr. Praino, yes; Ms. Reynolds, yes; Mr. Toney, yes; Ms. Washington, yes.

Ms. Washington pointed out that Ginn Park is named after someone already. Council needs to be aware that if a memorial is going to be placed there for another person that something indeed has to be placed there for the person who the Park is named after. The Town has a way of naming things after people and nothing is ever placed to denote that person.

Mr. Taber explained that donations will be accepted for 90 days and staff will come back to Council at that time for further discussion.

IN RE: COUNCIL MEMBER COMMENTS

Mr. Brewer reminded citizens that school is back in session, so watch how you are driving. He congratulated McDonald's on the opening of their second store in Town. He asked when the trash contract was due.

Mr. Tkac noted it is a one-year contract with four renewable options.

Mr. Taber was going to look into the exact date. He also noted that just because there is an option that does not mean the Town has to exercise it.

Mr. Brewer handed Mr. Taber some regulations regarding a road that is 20 feet wide and can withstand 75,000 pounds with a turning area at the Park for fire apparatus if there are any structures 200 feet away from a fire hydrant. He mentioned that back when Chris Brown was Mayor there was a Fourth of July celebration with fireworks. The citizens of the Town loved it. He sent out a couple of requests for proposals to see what kind of a price tag would come with doing it again that he will be provide to the Town Manger to put before Council.

Ms. Washington thanked the parents who attended the Back to School Night with their children. She thanked the two women who came from Williamstown and spoke this evening during citizen comments.

IN RE: CLOSED SESSION

Mr. Toney moved, seconded by Ms. Forrester, 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, yes; Mr. Praino, yes; Ms. Reynolds, yes; Mr. Toney, yes; Ms. Washington, yes.

WHEREAS, the Dumfries Town Council desires to discuss a particular subject in Closed Session during the course of its meeting of September 4, 2012; and,

WHEREAS, the nature of the subject is the discussion of personnel matters. The discussion of same in Closed Meeting is expressly permitted by Section 2.2-3711(A)(1) of the Code of Virginia, 1950, as amended.

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

Mr. Toney moved, seconded by Ms. Forrester, to convene into open session. The motion carried and the following resolution was adopted by the following roll call vote: Mr. Brewer, no; Mr. Foreman, yes; Ms. Forrester, yes; Mr. Praino, yes; Ms. Reynolds, yes; Mr. Toney, yes; Ms. Washington, 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 Dumfries Town Council does hereby reconvene in Open Session at its meeting of September 4, 2012 and certifies the matters set forth in Section 2.2-3712(D) of the Code of Virginia, 1950, as amended.

Mr. Praino moved, seconded by Mr. Brewer, to direct the Town Manager to ascertain the status of the chosen individuals for the Planning Commission and the Board of Zoning Appeals and report to back to Council. 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.

IN RE: ADJOURNMENT

Mr. Brewer moved, seconded by Mayor Foreman, to adjourn the meeting. The motion carried by the following roll call vote: Mr. Brewer, no; 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