

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

Town Council Meeting

May 11, 2015

7:00 p.m.

Approved Minutes

- CALL TO ORDER BY TOWN COUNCIL: Mayor Sullivan called the Town Council to order at 7:03 p.m. Council members Gary Schwartz, Jerry Goebel, Patrick O'Connell, Mary Ann Kuhn, Katharine Leggett and Gary Aichele were present. Town Clerk Laura Dodd and Town Attorney John Bennett were present.

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- MINUTES: February 9, and April 2, 2015: Ms. Kuhn discussed that she had some typographical and grammar corrections for Ms. Dodd and moved to approved the February 9, 2015 minutes and Mr. Goebel seconded with the corrections and the minutes were approved 7-0. Mr. Goebel made a motion to approve the April 2, 2015 minutes and Mr. O'Connell seconded and the motion passed 5-0 with Mr. Schwartz and Ms. Kuhn abstaining as they had been absent.

- REPORTS: Treasury Report: Mr. Goebel reviewed the attached Bank Summary Report, and asked the Council to review the Bills-To-Be Paid List, and the Additional Bills to Be Paid List.

Ms. Kuhn made a motion to accept the Treasurer's Report and Mr. O'Connell seconded and the motion passed 7-0.

Planning Commission: Chairman Schwartz reported that there was still a vacant seat on the Planning Commission and that they were seeking letters of interest. He discussed that the Planning Commission has held three of the CPEAV courses with two more planned for May 19, and May 28, 2015 at 6:30 p.m. that would be focusing on the Town's Comp Plan.

Architectural Review Board: Mayor Sullivan discussed that the ARB would be meeting on May 14, 2015 to consider applications from the County and the Baptist Church.

Website: Ms. Kuhn discussed that the website update should be finished by the June Council meeting.

- TOWN ATTORNEY: Mr. Bennett discussed that he wished to confirm his understanding with the Council that he had the authority to file when it was appropriate and necessary legal action to collect Meals and Lodging Taxes. Council agreed by consensus that Mr. Bennett had that authority.

- PUBLIC HEARING: FY 2015-2016 Budget: Mayor Sullivan opened up the public hearing on the FY 2015-2016 Budget.

Ms. Sharon Luke asked how much was still owed on the sewer loan.

Mayor Sullivan discussed that \$2,572,000 was still owed on the sewer loan and \$165,000 was owed on the Avon Hall loan.

Mayor Sullivan closed the public hearing.

- PUBLIC HEARING: Consideration and Adoption of Ordinances and Resolutions to Vacate and/or Confirm the Vacation of Middle Street stub Street west of Main Street: Mayor Sullivan opened up the public hearing.

Mr. O’Connell disqualified himself from the discussion and left the Council table.

Mr. David Fiske discussed that Mr. O’Connell had previously filed a letter of disqualification and asked if there was anything else that the Inn of Little Washington, LLC should provide.

Mr. Bennett discussed that the minutes should reflect that Mr. O’Connell had disqualified himself and that a letter had been filed disqualifying him from and discussion of the vacation of the stub street and which stated that he was the owner of a substantial interest in the Inn of Little Washington, LLC and was the adjacent property owner to the stub street vacation under consideration.

Mr. Fiske discussed that this had been an unbelievably arduous process that had gone on for almost two years. He discussed that the Inn still felt that there was nothing wrong with what had been done but if the Council felt it needed to correct some things that was fine. He discussed that the Inn had relied on what had happened in June and July of 2013 and had spent at least \$155,000 trying to do something good for the Town. He discussed that the delay had left the Inn in limbo and he urged the Council to approve the vacation again. He discussed that he had no doubt that they would be sued again and his response was “so what...bring it on”. He discussed that a practical reason to approve it was the issue of the possibility of the Post Office moving and due to the Inn’s believe that they owned the stub street they had entered into negotiations with the Post Office where the Post Office would move further back in the building with access from the stub street. He discussed that the Inn couldn’t and wouldn’t keep investing money on the building until all the ligation was resolved. He discussed that if there were concerns over \$20,000 that the Inn had received and that the Inn would provide receipts for the work done on the crosswalks.

Mr. Aichele discussed that the Town had received a letter, attached, from Mr. Tim Pagano, a County resident, which raised questions about the vacation of the stub street and indicated that Mr. Pagano was not in favor.

Damaris Miller, a County resident, spoke against the vacation and discussed that it was not being abandoned for the public use but for the benefit of an LLC.

Marion Bragg, a County resident, asked that before the Town voted that it provide all the names of all the owners of the LLC and the adjacent property of the stub street.

Beth Gyorgy, a County resident, discussed that she felt it was amazing the Town would be acting on this before the County had made its decision and asked what the justification for this was.

Judy deSarno, a Town resident, spoke in favor and discussed that it would be a service for the Town as it would improve parking and she saluted the Inn for what they had done.

Diane MacPherson, a Town resident, spoke in favor and discussed that the Inn had a proven track record of taking care of their properties and had improved the entire Town for everyone, especially with the walking paths.

Christine Smith, a County resident, spoke against the vacation and discussed that she felt it would allow further restrictions to parking.

Brad Schneider, a Town resident, spoke in favor and discussed that there was no parking signage along the stub street and that the Planning Commission would be looking at parking as they looked at the Comp Plan. He discussed that their discussion would be open to the public for those that were concerned about parking issues.

Wendy Murdock, a Town resident, discussed that the Inn had not restricted public access in the two years that it had felt it owned the street and the ongoing debate had held up the Post Office negotiations.

Jay Brown, a property owner in Town, discussed that he felt that the Town should listen to all who spoke at the public hearing but as the Council was elected to represent the residents of the Town when the Town went to vote they should particularly pay attention to those who lived in Town foremost. He discussed that he had not heard a single resident speak against the motion.

David Konick, a County resident, gave the Council a petition, attached, and signed by patrons of the Post Office, including six Town residents. He discussed that under the Code of Virginia if any person requested it the Town should appoint three to five people to view the public right- away a report in writing any inconvenience that the vacation would cause before vacating the street.

Mr. Bennett discussed the Code said may appoint.

Mayor Sullivan read through the wording of the petition and discussed that the petition was available for public inspection.

Mr. Konick discussed that he felt that the Council couldn't vacate unless it did not serve a public purpose and that it would not inconvenience the public. He discussed that he felt that the abandonment and conveyance of the street were two different matters and that the Code required that the adjacent property owners pay fair market value to the owner of the street, which was the Town and that the Town had not done that. He discussed that it was a bad idea to giveaway public property and that it had not done so in the past. He discussed that the Mayor or anyone who had an interest the LLC should disclose it.

Mayor Sullivan discussed that he had no interest or money relationship in the Inn in any form.

Mr. Bennett discussed that if Mr. Konick had information he should disclose it.

Mr. Konick discussed that it was up to the Mayor to disclose it. He discussed that he had not told anyone what to say at the meeting and if the Town was being sued it was not because of him but it was because of the Council.

There was then a very brief heated discussion between Mayor Sullivan and Mr. Konick that involved disruptions from the public. Mayor Sullivan asked Mr. Konick to yield the floor and Mr. Konick refused. Someone in the audience asked that the Sheriff be called.

Mr. Aichele made a motion and Ms. Kuhn seconded that the Council adjourn for ten minutes to allow everyone a chance to calm down. He discussed that meetings that included yelling and screaming and where there were calls for the Sheriff were not productive. He discussed that at some point civility, trust, and common sense should prevail and that everyone should stop questioning people motives and characters. He removed his motion and Ms. Kuhn agreed to yield her second.

Ms. Audrey Reigery, a County resident, spoke in favor of the Council restricting public comment to Town residency

Ms. Sharon Pierce, a County resident, discussed that County residents supported the Town with County taxes including paying for policing and that she was appalled at the way speakers were being interrupted.

Mr. Bennett discussed that that Town residents paid County property taxes.

Mr. Aichele discussed that when the Council listened to public comment they often got good suggestions but they sometimes heard outright not factual statements, which left people believing them when they left as the Council did not always address every statement that was not factual. He discussed that he was tired of hearing that as a Town resident he was not paying his fair share of County taxes when he did.

Mr. Goebel discussed that the Town residents paid for their policing as much if not more than other County residents.

Mr. Aichele discussed that if sometimes Council members got impatient with some of the public it was because they got tired of hearing recycled mis-statements over and over again.

Ms. Gyorgy discussed that she appreciated what Mr. Aichele was saying but in the four times she had spoken at meetings she had been interrupted three times. She discussed that she felt that Mr. Bennett did not enforce Robert's Rules of Order regarding decorum. She discussed that although Mr. Konick did not tell her what to say she supported him and that the law suits were not frivolous. She expressed her concern that the Town was considering conveying property to an LLC with unknown investors. She expressed her concerns about when Mr. O'Connell was gone and who would be driving policy in the Town.

Thom Pellikann, a County resident, asked who has filed the lawsuit and spoke in favor and discussed that he hoped that the Town would do the right thing as they always had.

Bill Walton, a County resident, expressed his concerns that the issue was not really about the 30 feet of the stub street by those against it but was really about issues going further back by those that didn't like or love the Town and those that ran it. He spoke in favor.

Ms. Smith expressed how much she loved the Town which shouldn't be questioned because she objected to the Town's actions and she again spoke against the vacation.

Mr. Walton withdrew his remarks about people not loving the Town.

Jock Nash, a County resident, expressed that as an attorney he would have made the Inn pay for the street and that he would have given the Inn \$20,000 unless it had been earmarked exactly.

Lisa Leftwich, a Town resident, expressed her concerns about the amount of discord she was seeing. She discussed that she often could not park at the Post Office at night because of Inn guests taking the spots and that she did not want to see the Town become a resort where she would be a stranger. She discussed that she felt that the Inn had bought enough buildings.

John MacPherson, a Town resident, spoke in favor and discussed that the Inn had owned the Post Office for thirty years and that he was thankful that Mr. O'Connell had not kicked out the Post Office and the Café and turned the building into rooms. He discussed that he didn't see anyone else, except for perhaps Mr. Abdo, buying and fixing up buildings that were falling apart. He urged the Council to serve the residents that had elected them and not necessarily the people out in the County.

Chris Parish, a County resident and a Board of Supervisors member, discussed that he was discouraged by the acrimony that had surfaced especially since he knew that everyone present loved the Town and the County. He discussed that he feared the result would be detrimental to the County. He discussed that he had asked Mr. Konick twice to drop the matter. He urged the Council to table the matter until things calmed down.

Mayor Sullivan closed the public hearing at 8:20 p.m.

Mr. Schwartz discussed that he was concerned about what people took as fact. He asked Mr. Fiske if the Post Office discussions had been private.

Mr. Fiske said yes.

Mr. Schwartz discussed that he wondered how people could make statements about the Post Office as though they were true when the negotiations had been private. He discussed that the personal attacks on the Council and him, including the ones posted on RappNet, were wearing thin and that he took them seriously.

Mayor Sullivan discussed that he was unhappy and embarrassed by how scratchy people had become with each other and that he did not understand the antipathy that some people had for the Town. He discussed that the Town wanted to work with the County. He discussed that the Council, ARB, and Planning Commission were essentially volunteers trying to do what was best for the Town. He discussed that he didn't get the anger and the suggestions of criminality that he saw some people suggesting. He asked everyone to calm down and that the Town was trying to figure out what was good for the Town, the County was trying to figure out what was good for the County, and that everyone was in it together. He discussed that the courts would decide the legal issues.

Mr. Bennett discussed that a draft Ordinance, had been given to Council and it had been made available to the public. He discussed that the effect of the Ordinance would be to vacate the portion of the Middle Street stub street northwest of Middle Street to adjoining property owners, who on both sides was the Inn at Little Washington, LLC. He reviewed the attached Ordinance and discussed that if the Council approved the Ordinance they would find the following in the "Now, Therefore, be it Ordained" section: "upon consideration of this matter, the Town, acting through its Town Council, finds the portions of the public rights-of-way of the street known as Middle Street as set forth on the Plat (the "Stub Street") serve only property now owned by the Inn, and no others, and therefore no longer serve a public purpose and are not required for the public convenience. The easements and matters reserved below do not relate in any way to its use as a public right-of-way; that no public interest is advanced by retaining the Stub Street as a public right-of-way; and that retaining the Stub Street and being required to maintain the same would be a burden upon the Town as no public access is now served or reasonably likely to be served in the future, except the side walk for pedestrian foot traffic, which is reserved below".

Mr. Aichele discussed that there was, as far as he was aware of, no specific language in the Code of Virginia that would specifically speak to the precise details in the Ordinance; however, he believed that both the Town Charter and the explicable section of the Virginia Code, did give the Town Council the power to legislate broadly for the health, safety, and welfare of the citizens that they represented. He asked Mr. Bennett if he was confident that with the broad range of authority given to the Council to do acts that were in the public welfare, improved safety, and in general benefited the residents that they represented that they had the authority under the Code of Virginia to pass the Ordinance that night.

Mr. Bennett discussed that the Ordinance relied on the provisions of the Virginia Code that the Council had the power to vacate without consideration and without receiving any money or anything of value in return for a street, a public way that no longer benefited the public, which was situation here. He discussed that there were other issues that people were trying to tack on to make it more complicated but that was not the situation before the Council. He discussed that the question was where the public benefit for the stub street was. He discussed that the he could not see it, as there was only one property owner all the way around and if that owner wanted to he could post it to say don't step on my property so what was the point in having it. He discussed that if the property owner owned the street there would probably be a much greater benefit realized by the Town. He discussed that it been discussed that evening that the Town must appoint

reviewers and he reviewed the Section 15-2-2006 which said the government may appoint three to five people which he discussed he read as meaning may or may not so he felt that the Council did not have to do that. He asked what would be the point since the Council had all the relevant information before them to make the decision. He asked what was the knowledge that three or five reviewer could bring to the table.

Mayor Sullivan discussed that he understood that when the Council did this two years ago the Inn had promised to spend its own money to fix up the Church parking lot, the Post Office building, and the stub street and although the final numbers were unclear they were talking about a couple hundred thousand dollars, the purpose of which would obviously benefit Mr. O'Connell but it would also benefit the people who lived in town, the people who came into town, the people who parked in town, and the people who visited. He discussed that it would make it more attractive, make it greener, and safer. He discussed that a private enterprise was willing to spend an extraordinary amount of money which the Town did not have and which the County would not do and part of that was to get rid of the stub street. He discussed that he did not understand the notion that the Town had not gotten anything out of it. He discussed that the Church parking lot looked better and was more functional and that he would like to see that happen to the rest of it.

Mr. Bennett discussed that there was no contract here and that it was a vacation. He discussed that if the Town wanted to keep the Post Office vacating that portion would give the owner a much bigger option in land planning to have better parking and better access, and better opportunities for creating a better facility for use by both the Town and County residents. He discussed why do this if the prior action was OK and that the Ordinance addressed some language in the other matter which was unartfully used and which he took complete responsibility for that as Town Attorney. He discussed that it had been clear in the Council's mind what was going on and what the situation was. He discussed that it was cheaper and made more sense to correct it then to go court even if the Council prevailed.

Mr. Aichele discussed that given Counsel's response he moved to adopt the Ordinance in front of them. He discussed that there had been a time limit placed on the original Ordinance which had passed and that it made sense to just replace it. He discussed that the question had been raised about why the haste and why not wait until it was resolved in the Court but that litigation could go on for decades. He discussed that he was in favor on doing what they could for the Town and that they would probably be sued but would probably prevail. He discussed that, as he had said two years ago, you didn't have to be a member of the Church or have a Post Office box to benefit from the safety and beauty of the corner and that the lighting was better and that the access had been improved and if the plans executed two years before were any indication it would get even better. He discussed that he felt no one would want to bid on a piece of property that was in disrepair and if you stepped off the street it would be trespassing. He discussed that he was strongly in favor of moving forward with a project that would improve the safety, welfare, and beauty of the Town.

Mr. Schwartz seconded Mr. Aichele motion.

Ms. Kuhn made a motion to table the matter and discuss it and vote on it at the next meeting as it was before the courts. She asked Mr. Bennett if was appropriate to move on something before the court and asked how it would play out.

Mr. Bennett said yes it was appropriate and discussed that someone looking at this would consider the lawsuit mote after looking at the Ordinance if it passed.

Ms. Kuhn discussed that the Council had only gotten the draft Ordinance an hour before the meeting and she felt rushed and would like to have time to absorb it.

Ms. Leggett seconded Ms. Kuhn's motion to table.

A roll call vote was taken:

Mr. Schwartz voted "no"	Mr. Goebel voted "no"
Ms. Kuhn voted "yes"	Ms. Leggett voted "yes"
Mayor Sullivan voted "no"	Mr. Aichele voted "no"

And the motion failed 2-4 with Mr. O'Connell disqualified.

Mayor Sullivan discussed that this was not a new subject.

Ms. Leggett discussed that the Ordinance was emailed while she was driving from work and it was a lot to process and that she felt she had not had time to consider it.

Mr. Bennett discussed that there were no new matters in the Ordinance that were not in the 2013 Ordinance but instead of both vacating and conveying this Ordinance only vacated the property to the adjoining property owner and conveyed easements for sewer and water and anything else that might be necessary in the future. He discussed that the seven foot sidewalk easement was in the old documents and that the only new thing was the requirement that the Inn provide access to the other lots.

Mr. Aichele discussed that he and Ms. Leggett had not voted on the other issue so it was newer for them.

A roll call vote was taken on Mr. Aichele's motion to approve:

Mr. Aichele voted "yes"	Mayor Sullivan voted "yes"
Ms. Leggett voted "yes"	Ms. Kuhn voted "no"
Mr. Goebel voted "yes"	Mr. Schwartz voted "yes"

And the motion passed 5-1 with Mr. O'Connell disqualified.

- NEW BUSINESS: a). Consider and initiate appropriate actions to remove stub street from State Secondary Highway System and to discontinue any possible interest VDOT may have related to stub street: Mr. Bennett discussed that a former Town Council had petitioned VDOT to take the Middle Street stub street into the secondary system and maintain it as part of the secondary road system. He discussed that the Virginia Code allowed in towns with 3,500 residents or less that the government could petition VDOT to have it removed upon the finding that it no longer served the public convenience. He discussed that based on the Ordinance just passed the Council had made that finding and that in order to remove any impediment of the full usage of the surface of the stub street by the Inn he advised that the Town file a petition or whatever documents that were necessary to with VDOT or other parties to have the road removed and no longer maintained by VDOT.

Mr. Aichele made a motion to authorize the Mayor to do all that was necessary to petition VDOT to remove the Middle Street stub street from the secondary road system and Mayor Sullivan seconded and a roll call vote was taken:

Mr. Schwartz voted "yes"	Mr. Goebel voted "yes"
Ms. Kuhn voted "yes"	Ms. Leggett voted "yes"
Mayor Sullivan voted "yes"	Mr. Aichele voted "yes"

And the motion passed 6-0 with Mr. O'Connell being disqualified.

- OLD BUSINESS: a) Consideration and adoption of appropriate actions, relating to the Beautification Project and appropriation of \$20,000 for such Project: Mr. Aichele made a motion to table this agenda item over until the June Council meeting. He discussed that the Council was waiting on a report from Mr. Bennett on how funds had been spent once he and Mr. Fiske had a chance to go over the receipts.

Ms. Leggett seconded and a roll call vote was taken:

Mr. Aichele voted “yes” Mayor Sullivan voted “yes”
Ms. Leggett voted “yes” Ms. Kuhn voted “yes”
Mr. Goebel voted “yes” Mr. Schwartz voted “yes”
And the motion passed 6-0 with Mr. O’Connell being disqualified.

Mr. O’Connell returned to the Council table at 9:06 p.m.

b). Off-line Fire Hydrant on Piedmont Avenue:

Mayor Sullivan discussed that the Town had received a quote from County Water to take out the old hydrant and put in a new one for about \$22,000. He discussed that Mr. Schwartz had had the brilliant idea of putting the hydrant not on road itself but on Town land just off Piedmont on the corner just past Mr. Metcalf’s house, which would be significantly less expensive. He discussed that the Town was waiting to get a new quote from County Water for the new location and that it seemed like a good solution. He discussed that Ms. Speaker from the Fire Department had agreed that the new location would work and be appropriate.

Mr. Schwartz discussed that the new location was about 360 from the old hydrant.

Mr. Bill Metcalf, a Country resident, expressed his concerns that the old hydrant should be removed, which he felt the Council had already agree to and discussed that it was his understanding that the fire hydrants had been installed in 1985, including five hydrants that were outside of Town including the abandoned one on Piedmont Avenue. He discussed that replacing the hydrant was a safety issue which the Town had known about for years. He also expressed his concerns about the placement of the new hydrant.

Mr. Aichele discussed that he would be working on the hydrant issue and that he was also interested in discussing with the residents on Piedmont Avenue if they would be interested in coming into Town.

Mr. Metcalf discussed that Mr. Critzer had given him a quote that was about half of Country Water’s quote.

Mayor Sullivan discussed that he had talked to Mr. Critzer and that he had indicated that he would be sending in a quote.

Mr. Schwartz described the location where he recommended that the new hydrant be located and how it would satisfy safety issues.

Mr. Metcalf expressed his concerns that there might be additional surcharges for water customers in the water service district that were outside of Town, which he felt was unfair because past race issues had kept Piedmont Avenue outside of Town.

Mr. Goebel discussed that there were other areas outside of Town that received water.

Mayor Sullivan discussed that the subject of Piedmont Avenue coming into Town was an interesting one that needed to be discussed.

Mr. Aichele discussed that the Town would continue to follow up on the hydrant issue and to also he would like to have a conversation with Piedmont Avenue residents about Piedmont Avenue coming into Town.

c). Avon Hall Update: Mr. Aichele discussed that he and Ms. Kuhn had revitalized the Avon Hall Study Group and had had an initial meeting and that they were considering a twostep process where they looked at the Avon Hall building and the Avon Hall property separately. He discussed that they would be working with groups that had worked on the pond and trail and others that had been looking at Avon Hall and they would be trying to come up with an overall Comp Plan for Avon Hall. He discussed that the question of whether Avon Hall should be sold had been considered and the consensus had been that it shouldn’t be sold until other options had

been considered. He discussed that they would be gathering public comments and ideas and would come back to Council with a report.

- NEW BUSINESS CONTINUED: b). Joint Work Sessions of the Planning Commission and Town Council in conjunction with the CPEAV Planning Course to be held on May 19 and May 28, 2015: Mayor Sullivan discussed that the next two Planning sessions would be open to all Council members and all the Planning Commission members as a joint public work session and they would be advertised in the paper..

c). Comcast Franchise Agreement: Council agreed by consensus to table this agenda item while Mr. Bennett continued work on a franchise agreement with Comcast.

- PUBLIC FORUM: Mayor Sullivan opened up the public forum. Ms. Nancy Buntin urged the Council to not let Comcast go anywhere as it was her lifeline.

Mr. Aichele discussed that it basically a negotiation of available options and that Comcast was mandated to provide service.

Ms. Bunting discussed that she felt that it was most important issue for the Town to consider bringing Piedmont Avenue into Town which was something she would like to see.

Mr. Schwartz discussed that the Town had tried to bring in Piedmont Avenue during the sewer system discussions.

Mr. Aichele discussed that they would be looking at the Comp Plan and looking at where the Town could acquire more residents and that Piedmont Avenue was one of those places but the question would have to be asked of what the residents of Piedmont Avenue thought about it.

Mayor Sullivan closed the public forum

- ADJOURNMENT: At 9:35 Mayor Sullivan made a motion to adjourn and Mr. Goebel seconded and the motion passes 7-0.

NEXT REGULARLY SCHEDULED MEETING OF THE TOWN COUNCIL ON JUNE 8, 2015

Respectfully submitted,

Laura Dodd
Town Clerk

Attachments:

Bills to be Paid, Additional Bills to be Paid, Monthly Financial Report

Letter from Mr. Tim Pagano

Mr. Konick's petition

