

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

May 13, 2013
7:00 p.m.

Town Council Meeting

Approved Minutes

- CALL TO ORDER: Mayor Sullivan called the Town Council to order at 7:02 p.m. Council members Alice Butler, Jerry Goebel, Mary Ann Kuhn, Gary Schwartz, Patrick O'Connell, and Dan Spethmann were present. Town Attorney John Bennett was absent. Town Clerk Laura Dodd was present.
- MINUTES: December 10, 2012: Mr. Goebel made a motion to approve the December 10, 2012 minutes and Mr. Spethmann seconded and the motion passed 7-0.
- REPORTS: Treasury Report: Mr. Goebel reviewed the attached Bank Summary Report, the Bills-To-Be Paid List, and the Additional Bills to Be Paid List. Mr. Schwartz made a motion to approve the Treasurer report and Mayor Sullivan seconded and the motion passed 7-0.
- Planning Commission: No Report.

Architectural Review Board: Chairman Adams reported that an application from the Inn at Little Washington was approved and an application from Mr. Abdo was approved with amendments.

Website: Ms. Kuhn reported that Mr. Martin Henze would be updating the website and if anyone had updates to the site to email them to Ms. Dodd.

Mr. Jay Brown discussed that the County and Town websites were both important but the Gay St. Inn had been tracking from which website referrals came to the their inn and the Town's website consistently was more important than the County in referrals. He commended the Town's website committee on the site.

Ms. Diane McPherson discussed that the Foster Harris House also received more referrals from the Town's website than the County's.

Mr. Goebel discussed that he felt that the Town site should show all annual events in the County and that he had given a list of events to Ms. Dodd to be posted. He also discussed that an ad seemed to be showing up on the site.

Ms. Kuhn discussed that on Twitter it allowed Wordpress to post a Pringle ad and that Mr. Henze had now taken the option of not allowing ads for \$30 a month and the ad was now removed.

Mr. Goebel asked if the Town was tracking responses to whether the Town's website was "liked".

Ms. Kuhn discussed that the Town had received many positive responses.

Mayor Sullivan discussed that he thought it was a great website and that the Town needed to keep it updated.

Mr. Goebel discussed that he had suggested that the website be put on the agenda every month so people could make suggestions as to what should be posted onto the site.

- TOWN ATTORNEY: Mr. Bennett: No Report as Mr. Bennett was absent.
- PUBLIC HEARING: FY 2013/2014 Budget: Mayor Sullivan opened the public hearing on the budget:

Mr. Jay Brown discussed that the States Sales Taxes would be going up 1% later this year and that he assumed that the increase would have a small impact on the budget.

Mr. Goebel discussed that would have little impact on the budget but that line item had been increased slightly as the Town was taking in more sales taxes.

Mayor Sullivan closed the public hearing.

Mr. Schwartz asked about the transfer from the wastewater reserves to the wastewater income and if it that was from proposed additional income.

Mr. Goebel said no and discussed that it was a proposed transfer from the wastewater reserves to balance the budget.

Mr. Schwartz discussed that income should pay for operations and that he believed some of the costs occurred on the collection side were preventable or due to misuse or neglect and that put a burden on everybody to pay for certain specific failures. He discussed that the Town had put together a list of care and feeding of the grinder pots and he was not sure that people were paying attention to that list. He discussed that some of the problems had been breaker related and at \$75 an hour for emergency services for repairs it was getting excessive. He discussed that Mr. Don Hearl had discussed in the past that the cost of one pump repair of \$300 plus was three years' worth of user charges collected from the users. He discussed that as things aged there would have to be more repairs and the best thing that the Town could do was to re-educate everyone and to educate new people moving in on what to put in and what not to put in down into the system and then maybe the cost of repairs would go down.

Mayor Sullivan agreed that the cost issue needed to be addressed and that while some things might be beyond the Town's control there might be other things that could be controlled. He discussed that on the revenue side the wastewater connection fees had been estimated for the current year to be taken in at \$210,000 but because of the sales of various properties in town, which had picked up, that number was more likely to be \$240,000 this year. He discussed that the extra money came from all connections fees being due at the point of sale of a property and consequently that money would no longer be spread out as income over the next few years.

- OLD BUSINESS.
 - a). Avon Hall//RappFlow: Mayor Sullivan discussed that there had been a presentation last month by RappFlow with a long discussion, which had morphed into a discussion about Avon Hall. He discussed that the Council still had to consider authorizing the expenditure of certain funds to be reimbursed by grants after the RappFlow pond project was completed.

Mr. Spethmann discussed that one of the grants was from the Culpeper Water and Soil Conservation District for \$3,000 to rehabilitate and to create a buffer the area around the pond to slow water down as it went into the ground. He discussed that in the buffer area the turf had been killed and would be killed again in the fall and that it had been seeded with annual natives and aquatic plants but they would be replaced with perennials that would create a natural meadow around the pond. He discussed that aquatic plants would

also be planted within the first few feet of the pond with the objective to clean up the water.

He discussed that the Town would be obligated to two activities, one was to carry the associated costs of the project until it was completed and the Water and Soil District reimbursed the Town for those costs. He discussed that everyone was doing everything possible to keep the costs down as much possible and that to the extent that volunteers could be relied on a lot of the work would be done by volunteers but some of the work would have to be contracted out to licensed people such as for the herbicide treatment. He discussed that the Town would also be obligated to maintain the area but the reality was that maintenance would be less intensive than what was being done now but there would be a cost associated with that maintenance.

Mayor Sullivan discussed that the RappFlow presentation and the volunteers efforts were very impressive.

Mr. Spethmann made a motion to approve the expenditure of up to \$3,500 on the Avon Hall pond project with the expectation of it being paid back by grants and Ms. Kuhn seconded the motion and a roll call vote was taken:

Mr. Schwartz voted "yes"	Mr. Goebel voted "yes"
Ms. Kuhn voted "yes"	Ms. Butler voted "yes"
Mr. O'Connell voted "yes"	Mr. Spethmann voted "yes"
Mayor Sullivan voted "yes"	

And the motion passed 7-0.

b). Board and Committee Vacancies: Mayor Sullivan discussed that there were two vacancies on the Board of Zoning Appeals as a consequence of Mr. Jay Brown and Mr. George Eatman resigning and that those spots needed to be filled by the Circuit Court. He discussed that there continued to be a vacancy on the Planning Commission and that there was also a vacancy on the ARB. He discussed that there had been two applications for the ARB vacancy, one from John McPhearson and another from Gail Swift. He discussed that Mr. McPhearson had lived in the town for over nine years and that both he and his wife Diane had been encouraged to become involved with Town committees but had been unable to commit but now things had changed and Mr. McPhearson was interested. He discussed that Ms. Swift and her husband George were new to the town and the Town welcomed their interest in becoming engaged.

Mr. Spethmann discussed that it was good that things were progressing and that people were interested in becoming involved. He spoke in favor of Mr. McPhearson citing his contributions to the Town and enthusiastically nominated Mr. McPhearson to replace Ms. Michelle Schwartz on the ARB.

Ms. Kuhn spoke in favor of Mr. McPhearson being appointed commenting that the McPhersons had been great neighbors and had done a great job of renovating the Foster Harris House. She discussed that Mr. McPhearson had also contributed to the Town in his past capacity as President of the Washington Business Association.

Mr. Goebel seconded Mr. Spethmann's nomination and a roll call vote was taken:

Mr. Schwartz voted "yes"	Mr. Goebel voted "yes"
Ms. Kuhn voted "yes"	Ms. Butler voted "yes"
Mr. O'Connell voted "yes"	Mr. Spethmann voted "yes"
Mayor Sullivan voted "yes"	

And the motion passed 7-0.

Mayor Sullivan discussed that Mr. Brown and Mr. Adams were moving out of town so there would be another vacancy on the ARB. He thanked Mr. Brown and Mr. Adams for their participation and interest in the town. He discussed that he particularly wanted to thank Mr. Adams as he felt that being head of the ARB was one of the hardest jobs in town because one was trying to maintain certain kinds of standards, some of which were very specific and some of which were kind of general. He discussed that to maintain the standards of what the Town wanted to be when dealing with friends and neighbors and to sometimes have to say no to somebody who really wanted to hear yes was a difficult thing to do. He discussed that he felt Mr. Adams had done the job with class and grace and he would be missed when he stepped down.

- NEW BUSINESS: a). Zoning Ordinance Amendments to the B&B definition of dining quests: Mayor Sullivan discussed that the Council had received a request from John and Diane McPhearson to look at how the Zoning Ordinance restricted B&Bs as to whom they could serve food and drink.

Mr. McPhearson, owner of the Foster Harris House, discussed that he had gotten a request to serve dinner to a non-guest. He discussed that in terms of the County John McCarthy had indicated that the County had different standards than the Town. He discussed that after nine years he and his wife were in a financial situation where they were now renovating their inn and putting in a commercial kitchen with all the attributes of a restaurant so they could serve dinners to their overnight guests. He discussed that they only had ten seats and that they wanted to be able to fill seats not filled by overnight guests with non-guests. He discussed that Mr. McCarthy had said that the County would allow them to serve ten people for breakfast, lunch, and dinner regardless if they were overnight guests or not. He discussed that Ms. Dodd and others had indicated that the Town's zoning only allowed for serving meals to over-night guests. He discussed that Mr. McCarthy had told him he had no idea why the Town limited the serving of meals to only overnight guests and that it made no sense which then prompted his request to the Mayor and Council.

He discussed that he wanted to discuss the question of why and why not and that their aim was to serve no more than ten quests. He discussed that he felt it would be wonderful for the Town to have more opportunities for tourists and people in the Town and the County to experience.

Mayor Sullivan discussed that if the Council felt that this was an idea worth pursuing they would have to vote to ask the Planning Commission to investigate the idea and come back to the Council with recommendations and then a public hearing would have to be held to amend the Ordinance and then the Council would have to vote. He discussed that the wording not allowing serving food to non-guests could be taken out and that the McPhearsons were asking that they be allowed to serve meals to the some number of people as they could have to guests which was five bedrooms times two equaling ten. He discussed that B&Bs would have to be allowed to serve the number of bedrooms times two, which in the case of the Inn at the Ridge with six rooms would be twelve people. He discussed that there was also relevance to the maximum number, which was also based on available parking.

Mr. Schwartz discussed that there were different perspectives on how to handle this but as a protocol he felt something should be handed to the Planning Commission as a directive as to what the Council wanted so they could apply the Zoning Ordinances to see where they fit or did not fit. He discussed that he would be confused as to what direction he would take the Planning Commission given the information that he had been given. He discussed that he felt that based on Mr. Bennett's responses that there would have to

be an application for a special use permit from the applicant whether in was Mr. McPhearson or anyone else and that application would have to be evaluated against the Zoning Ordinances and how they applied. He discussed that a special use permit was granted on not granted by the Council based on how it fit the Ordinances but there was also some flexibility in the special use permit and some additional conditions could be put in the permit. He discussed that there was no application now as the Zoning Ordinance did not support it and he asked if what was being asked for was for a zoning amendment. He discussed that a restaurant was allowed by a special use permit in Village Services but not in Village Residential and the Foster Harris House was in Village Residential.

Mayor Sullivan discussed that the Council did have to follow the ordinances but the ordinances could be changed if the Council wished. He asked the Council to consider the merits of the idea of allowing B&Bs to serve non-guests and whether the change would be a good idea.

Mr. O'Connell discussed that it was important that the idea of serving non-guests should not be considered in isolation and that if implemented it would have to be for all B&Bs and it could not just be for a special exception for one case. He discussed that at a minimum the Council would have to redefine what the Ordinance called a B&B and he read the definition. He discussed that the definition was precise in saying meals could only be served to overnight guests in contrast to a restaurant, which was also defined. He discussed that the Council was not dealing with the limitations of a special use permit but they were dealing with a request to redefine the terms of what a B&B was in relation to the Town and what a restaurant was in relation to the Town. He discussed what they would be recommending to the Planning Commission would be to explore the questions redefining those two terms.

Mr. Goebel discussed that the Council would also have to require a commercial kitchen.

Ms. Dodd asked Mr. McPhearson if it had been a requirement of the Health Dept. that they have a commercial kitchen before they could serve their guests dinner.

Mr. McPhearson said yes and he discussed that the County allowed the serving of meals whether it was breakfast, lunch, or dinner regardless if it was overnight guests or not.

Ms. Kuhn asked if the County considered the number of diners.

Mr. McPhearson discussed that the number of diners allowed was based on the number of rooms.

Ms. Kuhn discussed that she felt that the question of serving non-guests meals should go before the Planning Commission and that another idea of what should be considered would be to consider a new category besides a B&B, which would be a B&B Inn, which would then have the wording of what the applicant, Mr. McPhearson, wanted to do.

Ms. McPhearson discussed that that in the B&B industry there were already definitions for an Inn and B&Bs and the new definition would be for a country inn that was in a rural area that served breakfast, lunch, and dinner.

Mr. O'Connell discussed that the current definition of an Inn says see Hotel and that definition for hotel indicated that it was not a B&B so that definition would have to be changed as well.

Ms. Dodd asked if to move forward if the Council might wish to consider asking the Planning Commission to look at both definition changes and a special use permit process both of which would require a public hearing and an amendment to the Zoning Ordinance.

Mr. Schwartz discussed that he felt he needed more direction from Mr. Bennett as Mr. Bennett seemed to favor allowing the use by a special use permit but Mr. Schwartz raised concerns that there might be an issue regarding of when a B&B became a restaurant and that there were issues with restaurants and zoning.

Mayor Sullivan agreed that if the Council wished to consider the change it needed to give the Planning Commission specific directions on what they would like to see or not see.

Mr. Spethmann discussed that there were to subjects being considered, one being the mechanics of making the change, which he said let's put aside and he asked what was good news about the opportunity to making the change and what was the bad news about the opportunity to do this. He discussed was it the competition to the Inn, competition between B&Bs, does it lead to some preferential advantage or disadvantage, or were there mechanical or parking problems. He asked if there were the advantages such as multiply effect and was there an opportunity for tourists to stay overnight and was that consistent with other things happening in town that were leading to the town becoming more of a destination rather than a one time in and out. He asked if this would make any difference to the Inn.

Mr. O'Connell said no and discussed that he hoped that the Council was not trying to consider this in isolation and whatever was done for one B&B it had to be done for all B&Bs.

Mr. Spethmann asked if all B&BS were allowed to increase their capacity would that be a good thing or a bad thing.

Mr. O'Connell discussed that the question was were they legally then a B&B and discussed that he thought not, maybe a hybrid, but legally they would be considered a restaurant.

Mayor Sullivan discussed that legally now a B&B could serve up to ten guests, if they had five rooms, for dinner so if in the future they served six guests and four non-guests on the merits of that what was good and what was bad about it for the Town. He discussed that he thought it was a good idea for the Town.

Mr. Schwartz discussed that it would good for the Town as far as Meals and Lodging Taxes went but in deference to Mr. Spethmann he did not think you could take a look at the issues separately because there were consequences such as tourist homes being able to serve dinners and he was concerned about setting a precedent.

Mr. Spethmann discussed that the intended consequences and unintended consequences did need to be looked at such as a B&UB that never took in guests but served dinners every night becoming a restaurant.

Mr. Schwartz discussed a middle ground probably could be reached but the Town needed to look at the definitions for B&Bs, tourist homes, and restaurants.

Mr. Nevill Turner discussed it raised all kinds of questions including the question of country inns and serving dinners and did the Town want to bring in country inns into town.

Ms. Kuhn discussed that she felt that at the next meeting the Planning Commission and the Town Council should hold a joint meeting with Mr. Bennett and Mr. McCarthy in attendance to discuss the legal issues and how the law might need to be changed.

Mr. O'Connell discussed that he agreed with Ms. Kuhn and that if the Council wished to allow meals to be served to non-guests it was a legal issues and the law would have to be changed and Mr. Bennett and Mr. McCarthy would have to be present.

Mayor Sullivan discussed that if the Town thought that the idea was fundamentally bad then it should not be considered but if most people thought it was a good idea it should be pursued.

Ms. Kuhn discussed that the Council just needed more information.

Mr. Irwin discussed that most B&Bs across the country were country inns that served meals to non-guests but his concern was how would people know that a B&B was open to the public.

Mr. Goebel asked if Mr. McPhearson would be selling alcohol.

Mr. McPhearson discussed that they might include wine as part of a price fixed meal or they might apply for a license to sell wine by the glass or bottle.

Mr. Brown spoke in favor of the idea of serving diners to non-guests discussing that most of the consequences would mainly be on the up side and would give more tourists and county residents more opportunities to have somewhere else to eat.

After a short discussion, Ms. Kuhn made a motion to hold a joint work session with the Planning Commission to consider the issues of allowing B&Bs to serve meals to non-guests at the next Council meeting and Mr. Spethmann seconded and the motion passed 7-0.

b). Christmas Party and Christmas Parade: Mayor Sullivan reported that the Christmas Parade would be held on the second Sunday in December, the 8th, and that the Town Christmas party would held on the third Sunday in December, the 15th.

c). Change to June 10, 2013 Council meeting date: Mayor Sullivan discussed that he would be unable to attend the Council meeting on June 10th and asked the Council to consider moving the Council meeting date.

Ms. Kuhn made a motion to move the June 10, 2013 Council meeting date to Monday, June 17, 2013 and Mr. Spethmann seconded and the motion passed 7-0.

Ms. Kuhn made a motion to amend her motion to hold a joint work session of the Council and Planning Commission at the next Council meet to a motion to continue tonight's meeting to Tuesday, June 4 to hold a joint meeting with the Planning Commission to consider the issues of allowing B&Bs to serve meals to non-guests and Mr. Spethmann seconded the amended motion and the motion passed 7-0.

- PUBLIC FORUM: Mayor Sullivan opened the public forum.

Mr. Irwin discussed that just because one B&B wanted to serve meals to non-guests not all B&Bs would want do so.

Mr. Schwartz commended the McPhearson for putting in a grease trap as part of their commercial kitchen and recommended that the Town require grease traps for all commercial kitchens. He also discussed that the public, including the ARB, needed to be educated regarding the issue of five foot easement reequirement for the grinder pot and pipes and that they needed to know that nothing permanent could be put into the easement.

Mr. Spethmann asked if a flier could be distributed to let users know what could and could not be put down into the grinder pot.

Ms. Dodd discussed that she put that info on the water bills several times a year.

Mr. Schwartz discussed how damaging kitty litter and fish tank gravel was to the grinder pot and the lines.

Mayor Sullivan closed the public hearing.

- CLOSED SESSION:

- CONTINUED MEETING: At 8:35 p.m. Mr. Schwartz moved to continue the meeting to Tuesday, June 4, 2013 and Mr. O'Connell seconded and the motion passed 7-0.

NEXT SCHEDULED MEETING OF THE TOWN COUNCIL ON JUNE 17, 2013

Respectfully submitted,

Laura Dodd
Town Clerk

Attachments:

Bank Summary Report
List of Bills-To-Be-Paid
Additional Bills Paid