

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

July 15, 2013

7:00 p.m.

Town Council Meeting

Approved Minutes

- CALL TO ORDER: Mayor Sullivan called the Town Council to order at 7:03 p.m. Council members Alice Butler, Jerry Goebel, Mary Ann Kuhn, Gary Schwartz, and Patrick O'Connell were present. Council member Dan Spethmann was absent. Town Attorney John Bennett and Town Clerk Laura Dodd were present. _

- JOINT MEETING OF THE TOWN COUNCIL AND THE PLANNING

COMMISSION: Consideration of the issues regarding allowing B&Bs to serve non-B&B guests: Mayor Sullivan discussed that the Planning Commission and Town Council were holding a joint meeting to consider the issues concerning allowing B&Bs to serve non-guest meals, which had been discussed at the June 4th meeting. He discussed that Mr. Bennett had provided two new draft amendments to the Council and Planning Commission on June 26th (attached). He discussed that the basis question was that if a B&B met the appropriate Health Dept. requirements and any other appropriated regulations could they serve meals to non-quests up to or equal to the number of people the B&B could have as guests, which for most would be ten people. He discussed that Mr. John McPherson was not able to be present but Ms. Diane McPherson was present to answer questions.

He discussed that he hoped that the Council would move forward on the issue that evening. He discussed that this would allow a mechanism by which a B&B could serve meals to non-residents through a SUP, and that each SUP would be reviewed by the Town and each would be subject to various conditions on a case by case basis.

Planning Commission Chairman Schwartz opened up the meeting to the Planning Commission. Commissioners Nevill Turner, Katharine Leggett Miller, and Brad Schneider were present.

Mayor Sullivan discussed that some concerns had been raised regarding parking and that Mr. John McCarthy had not found that to be an issue.

Ms. McPherson discussed that if given the SUP they intended to increase parking for ten cars, five for overnight guests and five for non-guests.

Mr. Goebel discussed that there could actually be twenty cars if everyone came individually.

Ms. McPherson discussed that twenty cars seemed unlikely.

Mayor Sullivan discussed that Mr. McCarthy had indicated that five spaces seemed fine. He discussed that the McPhersons had come up with a reasonable amount of parking for the cars.

Mr. Schneider discussed that at least one guest should be served to preclude it from becoming a restaurant.

Mayor Sullivan discussed that Mr. Schneider had raised the issue that B&B's should not be able to serve non-guests unless there was at least one overnight guest staying but

he felt that the Council had not answered that question and that he did not really see the point of that limitation.

Mr. Bennett discussed that procedurally what was drafted was that a B&B could be permitted to serve non-guests by SUP and that no one was entitled to a SUP. He discussed that it would be a legislative action and as long as a government acted rationally the SUP could not be set aside by a court. He discussed that the real beauty of a SUP was that if it was inclined to granted, every situation was potentially unique, and any condition could be imposed as long as it was rationally connected to that site.

He discussed that what the Council was considering that night was did they want to move to the next step to allow on a case by case basis by SUP the serving of non-guest meals and that a list of conditions could be attached to the SUP as long as the conditional was a rational to the use.

Ms. McPherson discussed that any B&B would encourage its overnight guests to dine as it would much easier to serve them than non-guests. She discussed that she thought it would extremely unlikely that a B&B would refuse to allow an overnight guest to dine and that they were just looking for an opportunity to serve local people to supplement their income.

Ms. Miller discussed that she understood Mr. Schneider's concerns and that existing restaurants had had to get licenses and asked if there should be some limitation on the B&Bs.

Mr. Schneider discussed that he understood that the intent would be to serve overnight guests but his concern was in the event of there being no guests then having ten local people coming to dinner that would put the B&B into a different realm. He discussed whether there should be the criteria of at least one guest dining.

Mr. Bennett discussed that the way it had been drafted was that the hard and fast rule was that there could only be ten people per seating and only one seating at breakfast, one seating at lunch, and one seating at dinner and after that each SUP could be tailored. He discussed that if it was the pleasure of the Planning Commission and the Council that limiting conditions be applied to all regardless then it could be a mandatory condition for each SUP.

Chairman Schwartz discussed that he was OK with the way it was currently drafted for that night's discussion and that in his mind he saw this for B&Bs in Village Residential and Village Rural and not Village Mixed Use or Village Services because at some point it became a restaurant. He asked at what point in Village Mixed Use and Village Services did a B&B became a restaurant because there were certain restrictions on restaurants imposed by the Health Dept. and VDOT and he discussed that restaurants also impacted the sewer system, including having a 1.7 multiplier for their sewer assessments as stated in the Sewer Ordinance, and a commercial kitchen was also required. He asked at what point in Village Mixed Use and Village Services do you draw a line with a B&B coming in with a SUP to serve non-guests and wasn't that just a restaurant.

Mr. Bennett discussed that a B&B had to have lodging and that five rooms or ten guests were the limit for a B&B and over that it would be a restaurant. He discussed that most restaurants with four or five tables with no lodging could not economically survive.

Mayor Sullivan discussed that he was OK with the current drafted definition and SUP process for serving non-overnight guests but felt that the multiplier for the sewer assessment should be bumped up from 1.4 to 1.7. He discussed that the applicant would have to have a commercial kitchen to do this and whether serving ten or twenty it would have an impact on wastewater.

Mr. Bennett discussed that the Council would need to get all the Ordinances, including the Sewer Ordinance and Zoning Ordinance to fit together and after a certain amount of time the wastewater of the applicant should be tested and the owner charged if need be.

Chairman Schwartz discussed that one issue was intensity, which have to be tested, and the other issue was usage and that he felt that B&B owners needed to know that their assessments based on usage would go from a commercial multiplier of 1.4 to having a restaurant multiplier of 1.7.

Mr. Turner asked about the policy of how people would be turned away from meals.

Ms. McPherson discussed that there needed to be at least a three day notice that people wanted to dine.

Mr. O'Connell asked if the change in the definition would be a separate issue.

Mr. Bennett discussed that in addition to the draft SUP amendment there was also included a draft revision of the definition of a B&B which would have to be adopted.

Chairman Schwartz asked if there was an SUP application.

Mr. Bennett discussed that there was an application and that the Council could always ask for additional information if needed.

Mayor Sullivan discussed that the Council and Planning Commission were faced with approving the two suggested changes and then the next step would be an SUP application from the McPhersons.

Mr. Bennett discussed that every B&B wanting to serve non-guests would have to come before the Council with a SUP, which might be granted, or not, or granted with conditions. He discussed that if the Planning Commission recommended approval and the Council was in agreement the next step would be to authorize a public hearing on the proposed amendments.

Mr. Schneider asked that without a SUP would a B&B still have the right to serve breakfast to overnight guests and if they wanted to go beyond that they would have to have a SUP.

Mr. Bennett discussed that the answer to his question was yes.

Mr. Goebel asked if under the new amendments if breakfast, lunch, and dinner could be served.

Mr. Bennett discussed that if a SUP was granted then the answer was yes.

Ms. Kuhn suggested a change in wording in of the SUP amendment from the word may to the word shall.

After a short discussion Mayor Sullivan and Chairman Schwartz discussed that the change would limit the Town's flexibility and Mr. Turner and Mr. Schneider agreed.

Ms. Miller made a motion that the Planning Commission recommend that the Council adopt the revisions to the Ordinances as written.

Chairman Schwartz seconded the motion and a roll call vote was taken:

Chairman Schwartz voted "yes" Mr. Turner voted "yes"

Mr. Schneider voted "yes" Ms. Miller voted "yes"

And the motion passed 4-0.

Chairman Schwartz made a motion to adjourn the Planning Commission and it passed 4-0.

Mayor Sullivan made a motion to authorize and advertise a public hearing to review and adopt the proposed changes to the Ordinances. Mr. O'Connell seconded and a roll call vote was taken:

Mr. Schwartz voted "yes" Mayor Sullivan voted "yes"

Mr. O'Connell voted "yes" Mr. Goebel voted "yes"

Ms. Kuhn voted "yes" Ms. Butler voted "yes"

And the motion passed 6-0.

- MINUTES: April 8, 2013: Ms. Kuhn had some typo and grammar corrections to the April 8, 2013 minutes and Mr. Goebel made a motion to approve the minutes as corrected and Ms. Butler seconded and the motion passed 6-0.

- 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. Goebel discussed that the check for \$15,000 for the Town Center improvements had been written but not distributed.

Mr. Schwartz asked about the ABC taxes.

Ms. Dodd discussed that the Town had not received ABC taxes since Sunnyside had closed.

There was a discussion about other establishments selling wine and beer.

Ms. Dodd discussed that it was the State and not the Town that collected ABC taxes.

Mr. Schwartz asked about the Commonwealth Engineering bill and discussed his concerns that the Town should remain in control of the gaskets and the testing for the grinder pot installations and that he would discuss the situation with ESS.

Ms. Kuhn asked if the Meals and Lodging Taxes were about the same for this year as last year or were they higher.

Mr. Goebel discussed that they were higher.

Mayor Sullivan asked for an update of the Meals and Lodging figures for the next meeting.

Ms. Kuhn made a motion to approve the Treasurer's report and Mayor Sullivan seconded and the motion passed 6-0.

- Planning Commission: Chairman Schwartz discussed that the Planning Commission had just held a joint meeting with the Council.

- Architectural Review Board: Mayor Sullivan reported that the ARB had met and reviewed and approved four applications which showed that there continued to be a significant number of people making improvements in the town.

- Website: Ms. Kuhn reported that Mr. Henze was working on updating the site and that if anyone had any updates or changes to email them to Ms. Dodd, Mr. Henze, or to her. She asked everyone to go onto the Town's web site and to like the site on Facebook.

Mayor Sullivan discussed that the Town web site had received kudos from the German magazine "Der Spiegle" which was the equivalent of "Time" and that the Washington, D.C. bureau chief would be doing an article on the Town.

- TOWN ATTORNEY: Mr. Bennett: No report.

- PUBLIC HEARING: Consideration and adoption of Ordinances and Resolutions to vacate and/or convey the portion of Middle Street West of Main Street: Mayor Sullivan discussed that this issue was part of a larger interconnected project discussed at the last meeting involving improvements to the Town Center.

He opened up the public hearing.

He discussed that he felt that the Town, the Inn at Little Washington, and the Church, a non-profit had come together in partnership to potentially redo the center of town, which was the Trinity Church parking lot, the entrance to the Post Office/Café building, owned by the Inn, and the stub street adjacent to the Post Office Building, which was owned by the Town. He discussed that the Church, the Town, and the Inn had come together to create a harmonious, attractive design to improve the center of town. He discussed that the project would take a form that would continue the functionality of people being able to walk and park downtown but it would be greener, safer, and more attractive. He discussed that if the Council agreed to do this then it would increase safety, that there would also be an increase in Meals and Lodging Taxes, and that it would give a more welcoming feel to the center of town than the current parking lots.

He discussed that the financing was all interconnected with the Inn being prepared to pay most of the cost of the landscaping and hardscaping and that additional funding would be provided by a joint benefit given by the Church and the Inn, and that the Town had committed to \$15,000 out of last year's budget and \$5,000 out of this year's budget. He discussed that the lynch pin of the project would be the Town vacating the Middle Street stub street, between the Post Office and the Inn's Gift Shop, which was approximately 30 feet wide and 130 feet long, to the Inn. He discussed that the stub street did not really serve any public interest and that there would be appropriate conversations with VDOT regarding the transfer.

Mr. Gary Anchilles asked if there would be an increase in the parking spaces.

Mayor Sullivan discussed that there would be a loss of a few spaces along the stub street and that the Trinity Church lot would also lose two spaces, which would be replaced by landscaping.

Mr. Anchilles discussed that the area was unsafe and that he was pleased that the different entities could come together to achieve something of public benefit and he encouraged the Council to go forward.

Mr. Schneider expressed his concerns regarding non-handicapped drivers parking in the handicapped space in the Post Office lot and asked if during the renovation if the handicapped spot could be more clearly delineated.

Mr. O'Connell discussed that Mr. Schneider's suggestion was an excellent one and that the steps into the Café and Post Office would be eliminated which would make it easier for everyone.

Ms. Nancy Buntin discussed that she wished that the improvements could continue down Main St. to Ballard's as it was a difficult walk and people often had to walk in the street.

Mayor Sullivan discussed that Ms. Buntin had a good point but that was part of a larger issue for another day.

Ms. Butler asked if the public would still be able to have access as they did now to the Beauty Shop and offices off of the stub street.

Mr. O'Connell said that the street would continue to be open to serve those tenants.

Mayor Sullivan closed the public hearing.

He discussed that Mr. Bennett had provided a draft resolution.

Mr. Bennett discussed that the effect of the resolution was the vacation of that portion of the stub street that led to private property all owned by the same property owner. He discussed that the resolution would allow the Town to retain all existing easements, along with water and sewer easements, and the right to future utility easements. He proposed that paragraph 3 be changed to reserve an easement for a sidewalk of seven feet instead

of fifteen feet and that in paragraph 5 that the twenty foot easement be changed to fifteen feet if the parcel was sold to a different entity.

Mr. Goebel asked about paragraph 4 where the stub street being vacated would convey to Tax map 20a-1-18, the Inn Gift Shop, instead of the Post Office building, since the Post Office had offices in the back.

Mr. Bennett discussed that in the case of one building being sold a fifteen foot easement would have to be granted to the Town so there would be access to those offices.

Mayor Sullivan made a motion to approve the Resolution with the changes proposed by Mr. Bennett (Attached) to paragraph 3, change fifteen feet to seven feet, and paragraph 5, change twenty feet to fifteen feet.

Mr. Schwartz seconded the motion and a roll call vote was taken:

Ms. Butler voted "yes"

Ms. Kuhn voted "yes"

Mr. Goebel voted "yes"

Mr. O'Connell recused himself.

Mayor Sullivan voted "yes"

Mr. Schwartz voted "yes"

And the motion passed 5-0.

Mayor Sullivan discussed that the Town had made a significant change and he was looking forward to seeing the project commencing in the fall.

Mr. Goebel asked if a survey would have to be done.

Mr. Bennett discussed that a survey had been done and that it would be attached to the resolution.

] Mayor Sullivan discussed that the Town had received a letter of interest from Ms. Selma Thomas, who with her husband Alan Comp had bought and were renovating the Smoot property, in being appointed to the ARB. He discussed that she had an extraordinary background and that he felt that she would be a terrific addition to the ARB, although she was not yet living in town.

Mr. Bennett discussed that she would need to be a resident before she could be appointed.

He also discussed that the Town had control over the town's streets and suggested that the Council examine the final site plan that had been submitted by the Trinity Church and consider approving it as a development plan. After a short discussion, Ms. Kuhn made a motion to approve the Trinity Church Parking lot development plan and Mr. Schwartz seconded and a roll call vote was taken:

Ms. Butler voted "yes"

Ms. Kuhn voted "yes"

Mr. Goebel voted "yes"

Mr. O'Connell recused himself.

Mayor Sullivan voted "yes"

Mr. Schwartz voted "yes"

And the motion passed 5-0.

- NEW BUSINESS: a).
- OLD BUSINESS: a).
- PUBLIC FORUM: Mayor Sullivan opened the public forum.

Mayor Sullivan closed the public forum.

- CLOSED SESSION:
- ADJOURNMENT: At 8:25 p.m. Mayor Sullivan moved to adjourn the meeting and Mr. Schwartz seconded and the motion passed 6-0.

NEXT SCHEDULED MEETING OF THE TOWN COUNCIL ON AUGUST 12, 2013

Respectfully submitted,

Laura Dodd
Town Clerk

Attachments:

Bank Summary Report
List of Bills-To-Be-Paid
Additional Bills Paid
Draft Ordinance Amendments
Approved Resolution Vacating the Middle St. Stub Sty.
Approved Trinity Church Parking Lot Development Plan