

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

April 13, 2015

4:30 p.m.

Special Town Council Meeting

Approved Minutes

- CALL TO ORDER: Mayor Sullivan called the Town Council to order at 4:35 p.m. Council members Gary Schwartz, Patrick O'Connell, Mary Ann Kuhn, and Gary Aichele were present. Council member Jerry Goebel arrived at 4:39 p.m. Council member Katharine Leggett was absent. Town Clerk Laura Dodd and Town Attorney John Bennett were present. Attorney Robert Mitchell was also present.

- NEW BUSINESS: a). 1. Consideration of and entering into an engagement or retainer agreement with legal counsel to represent the Town in a matter, Konick v. The Town of Washington and any and all related matters as the Town may designate from time to time, and legal issues and possible litigation related to the "Sunnyside Lots" now under consideration by Council: Mayor Sullivan discussed that this was the first meeting at which the Council had legal benefit of Town Counsel Mr. Bennett since February.

Mr. Bennett discussed that the Town's insurance provider, VML, had declined in writing to provide an attorney to represent them in the Konick v. Town of Washington case and that in his view since he might be called as a witness and that he might have to disqualify himself he advised the Council to hire someone to represent who would be with them from the beginning of the case.

He discussed that Mr. Mitchell had provided a retainer agreement at rates reasonable and customary for this type of case and he recommended that the Town hire Mr. Mitchell to represent them in the Konick v. Town of Washington case and related matters, and in issues and possible litigation related to the Sunnyside Lots.

After a short discussion, Mayor Sullivan made a motion that the Town Council retain Mr. Mitchell to represent the Town in the Konick v. The Town of Washington case and in matters related to the Sunnyside lots in accordance with the retainer agreement provided by Mr. Mitchell to the Town and Mr. Aichele seconded and a roll call vote was taken:

Mr. Aichele voted "yes"

Mr. O'Connell voted "yes"

Mr. Goebel voted "yes"

Mayor Sullivan voted "yes"

Ms. Kuhn voted "yes"

Mr. Schwartz voted "yes"

And the motion passed 6-0.

- CLOSED SESSION: a). A possible motion to enter into and if adopted, to hold a closed session in accordance with the provisions of Section 2.2-3711A.7 namely, consultation with legal counsel employed and/or retained by the Town pertaining to actual litigation, namely, Konick v. The Town of Washington, when such consultation in open meeting would adversely affect negotiating and litigating posture of the Town Council: At 4:50 p.m. Mayor Sullivan made a motion to enter into a closed session in accordance with the provisions of Section 2.2-3711A.7 namely, consultation with legal counsel employed and/or retained by the Town pertaining to actual litigation, namely, Konick v. The Town of Washington, when such consultation in open meeting would adversely affect negotiating and litigating posture of the Town Council and Mr. Goebel seconded and a roll call vote was taken:

Mr. Schwartz voted "yes"
Ms. Kuhn voted "yes"
Mr. O'Connell voted "yes"

Mayor Sullivan voted "yes"
Mr. Goebel voted "yes"
Mr. Aichele voted "yes"

And the motion passed 6-0.

Mr. David Fiske discussed that he had advised his client, Mr. O'Connell that he should attend the closed session, but that Mr. O'Connell would recuse himself to avoid any potential conflict.

Mayor Sullivan discussed that Mr. O'Connell was willing to recuse himself if it was timely for him to do so. He discussed that no decisions would be made in closed session.

Mr. Bennett discussed that no actions would be taken on anything that evening.

Mr. Jay Brown asked about action possibly being taken on the agenda items under Old Business.

Mayor Sullivan discussed that there might be some discussion and that there would be an open Public Hearing later that evening but no actions were going to be taken until Wednesday meeting.

Mr. Bennett discussed that the Council was not contemplating taking any actions that evening.

Mr. Aichele made a motion that any discussion of pending business outside the closed session be carried over to the 7:00 p.m. meeting and Mr. Goebel seconded and a roll call vote was taken:

Mr. Schwartz voted "yes"
Ms. Kuhn voted "yes"
Mr. O'Connell voted "yes"

Mayor Sullivan voted "yes"
Mr. Goebel voted "yes"
Mr. Aichele voted "yes"

And the motion passed 6-0.

At 5:48 p.m. Mr. O'Connell recused himself from the closed session and left the Council table and Town Hall.

- OPEN SESSION: The Council reconvened the public session at 6:35 p.m. and Mr. Aichele made a motion that the Council certify that only public business matters lawfully exempted from open meeting requirements under the Code of Virginia, and only such public business matters as identified in the motion by which the closed meeting was convened were heard, discussed, or considered by the Town Council including when Mr. O'Connell recused himself. Mr. Schwartz seconded the motion and a roll call vote was taken:

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

Mr. Goebel voted "yes"
Mr. Aichele voted "yes"

And the motion passed 5-0. Mr. O'Connell did not participate in voting on this motion.

Mr. Schwartz made a motion the Council certify that only public business matters lawfully exempted from open meeting requirements under the Code of Virginia, and only such public business matters as identified in the motion by which the closed meeting was convened were heard, discussed, or considered by the Town Council, including when Mr. O'Connell was present and matters relating to the Konick v. Town of Washington litigation were considered. Mr. O'Connell seconded the motion and a roll call vote was taken:

Mr. Aichele voted "yes"
Mr. Goebel voted "yes"
Mayor Sullivan voted "yes"

Mr. O'Connell voted "yes"
Ms. Kuhn voted "yes"
Mr. Schwartz voted "yes"

And the motion passed 6-0.

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b). A possible motion to enter into and if adopted, to hold a closed session in accordance with the provisions of Section 2.2-3711A.7 namely, for consideration with legal counsel employed and/or retained by the Town Council regarding specific legal matters requiring the provision of legal advice by such counsel, namely, legal issues relating to the Ordinance under consideration by Town Council as to the “Sunnyside Lots” and all related matters: There was no discussion by Council of this agenda item.

- OPEN SESSION:

- OLD BUSINESS: a). Possible consideration and adoption of appropriate actions, relating to the Beautification Project and appropriation of \$20,000 for such Project: There was no discussion by Council of this agenda item.

- b. Possible consideration and adoption of appropriate actions related to vacation and/or conveyance of “Stub Street: There was no discussion by Council of this agenda item.

- CONTINUED MEETING: Mr. Schwartz made a motion to continue the meeting until the 7:00 p.m. April 13, 2015 Council meeting and Mr. Goebel seconded and the motion passed 6-0.

Respectfully submitted,

Laura Dodd
Town Clerk