

The Town of Washington

July 11, 2022
Council Meeting
APPROVED Agenda
7:00 p.m.

- CALL TO ORDER Action
- APPROVAL OF THE AGENDA Action
- MINUTES • June 13, 2022 Council meeting minutes Action
- REPORTS • Mayor's Report: Mayor Catlin Information
 • Treasurer's Report: Ms. Swift Action
 • Town Attorney Mr. Crim Information
 • Zoning Administrator: Mr. Gyurisin Information
 • Public Works Committee Information
 • Planning Commission Information
 • Architectural Review Board Information
- OLD BUSINESS a) Council appointment Action
- NEW BUSINESS a) Honoring Ms. Mary Ann Kuhn Information
 b) Public hearing regarding zoning fees Information/Action
 c) Discussion of tap fees Information/Action
 d) Application for boundary line adjustment Information
 e) Update signatories for banking accounts Action
- PUBLIC FORUM
- ADJOURNMENT

NEXT REGULARLY SCHEDULED MEETING OF THE TOWN COUNCIL
August 8, 2022

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

July 11, 2022

7:00 p.m.

APPROVED Minutes

- CALL TO ORDER: Mayor Fred Catlin opened the meeting at 7:00 p.m. Council members Patrick O'Connell, Brad Schneider, Gail Swift and Joe Whited were present. Jean Goodine was absent, and there is currently a vacant seat on the Council. Town Attorney Martin Crim and Town Administrator/Clerk Barbara Batson were present.
- APPROVAL OF THE AGENDA: Ms. Swift requested adding an item under new business c) discussion and possible vote on zoning fees and Mayor Catlin requested adding item d) extension of sewer service to the Volunteer Washington Fire Rescue Dept. Ms. Swift made a motion to approve the amended agenda and Mr. Schneider seconded and a roll call vote was taken:

Mr. O'Connell voted "yes"

Mr. Schneider voted "yes"

Ms. Swift voted "yes"

Mr. Whited voted "yes"

Mayor Catlin voted "yes"

And the motion passed 5-0 with Ms. Goodine absent and with a vacant seat on Town Council.

- MINUTES: Ms. Swift motioned to accept the minutes for June 13, 2022, Mr. Whited seconded and a roll call vote was taken:

Mr. O'Connell voted "yes"

Mr. Schneider voted "yes"

Ms. Swift voted "yes"

Mr. Whited voted "yes"

Mayor Catlin voted "yes"

The motion passed 5-0 with Ms. Goodine absent and with a vacant seat on Town Council.

REPORTS:

Mayor's Report: Mayor Catlin thanked Mr. Whited for agreeing to serve as Vice Mayor and Ms. Swift for running the June Town Council (TC) meeting.

Treasurer's Report: Ms. Swift presented the year-end report but reminded the Council that it was not the FY 21-22 audited report.

Town Attorney: Mr. Crim reported that he and Ms. Batson are working on the water and sewer ordinances in regards to the tap fees. He reported that the most recent parts of each ordinance are 20 years old. He recommends both ordinances be updated in a timely fashion.

Zoning Administrator: Mr. Steve Gyurisin reported there is currently a lot of activity with the Planning Commission (PC) and zoning applications. There are site plan reviews under way for Patty O's parking lot, the post office, and Rush River Commons, all of which are available for review at the town office.

Public Works Committee: Mr. Schneider thanked Atrium for their hard work on getting the new meters installed. Mr. Whited shared that the new water meter system would allow the town to identify leaks immediately and save \$3,600 a year by not having someone manually read the meters. Mr. Schneider is working to create a mounting device for the antennae on the roof of Town Hall. He is also working with LB Water to get a pressure monitoring system for the water system's reservoir.

Mr. Schneider also coordinated the work to have the lift station for the Inn at Little Washington pressure cleaned and pumped out to clean the pit to the bare walls, and add a lid to allow easy access for Environmental Systems Service, Ltd. to check the lift station for grease on a weekly basis. Mr. Schneider is working on the possibility of getting an e-charging pump at the post office. He hopes to have an update at the next meeting.

Ms. Batson reported that 70% of the new meters have been installed and there are approximately 10 meters that will require additional work in addition to the installation.

Planning Commission (PC): Ms. Caroline Anstey reported the PC did not meet in June but plan to meet on July 15 at 3:00 p.m. at town hall. They will consider a number of applications for rezoning and special use permits. She also said that the draft solar and pool ordinances are going to the town attorney for review.

Architectural Review Board (ARB): There was no report from the ARB. Mr. Schneider requested that the ARB and PC submit a written report monthly to the TC.

- **OLD BUSINESS:**

- (a) Council Appointment:

Mr. Whited made a motion to appoint Mr. Drew Beard to the TC and Ms. Swift seconded and a roll call vote was taken:

Mr. O'Connell voted "yes"

Mr. Schneider voted "yes"

Ms. Swift voted "yes"

Mr. Whited voted "yes"

Mayor Catlin voted "yes"

The motion passed 5-0 with Ms. Goodine absent and with a vacant seat on TC.

- **NEW BUSINESS:**

- (a) Honoring Ms. Mary Ann Kuhn: Mr. O'Connell shared it has been a privilege to serve with Ms. Mary Ann Kuhn on Town Council, and appreciates her 17 years of service on the TC and PC. Ms. Kuhn enjoyed an exciting career with the Washington Star and The Washington Post, and then

went on to become a producer for CBS News. In 1994 she purchased an historic home in Little Washington and in 1995 transformed it into the Middleton Inn and received 4 diamonds from the American Automobile Association in 2011. Her commitment to community service is unparalleled. She became the editor of the Rappahannock News and Vice President of the Rappahannock Historical Society. During her term in office, she has always been able to maintain a balanced and diplomatic perspective, even during times of controversy.

Ms. Kuhn thanked the council and said she was honored to serve the town and play a role in preserving this beautiful historic town and our way of life.

- (b) Extension of sewer to fire dept: Mayor Catlin said the Washington Volunteer Fire & Rescue (WVFR) Company has a need for sewer service, with a drain field that will fail in the not to distant future. Mr. Whited said the town has been talking for several years about extending the wastewater system to our emergency fire responders; and it has been waiting for WVFR to come to TC with a request. He said the TC has a commitment to serve our community. Ms. Swift said now is the time to move on this. Mayor Catlin said that the legal exemptions should be drafted so it's ready for action should the WVFR request sewer service.

Ms. Swift made a motion to direct the town attorney to contact the sewer bond holder for their permission in writing to take the wastewater system outside the town for emergency services, Mr. Whited seconded and a roll call vote was taken:

Mr. O'Connell voted "yes"

Mr. Schneider voted "yes"

Ms. Swift voted "yes"

Mr. Whited voted "yes"

Mayor Catlin voted "yes"

The motion passed 5-0 with Ms. Goodine absent and with a vacant seat on TC.

Mr. O'Connell asked if this action will affect the boundary line adjustment (BLA) currently under review by the county and town? Mayor Catlin responded that this action didn't need to be included in the BLA and that it should be handled as a separate item. Mr. Schneider added that the current system ends at the post office, and with the addition of Rush River Commons it will make it easier to extend the system to the WVFR.

Ms. Swift made a motion to direct the town attorney to contact the sewer bond holder for their permission in writing to take the wastewater system outside the town for emergency services and Mr. Whited seconded and a roll call vote was taken:

Mr. O'Connell voted "yes"

Mr. Schneider voted "yes"

Ms. Swift voted "yes"

Mr. Whited voted "yes"

Mayor Catlin voted "yes"

The motion passed 5-0 with Ms. Goodine absent and with a vacant seat on TC.

- (c) Public Hearing regarding zoning fees: Ms. Swift reported that during the last two fiscal years there was a negative balance on expenditures versus revenue. She reported that Mr. Gyuris reviewed the fees of four other counties.

Mr. Robert Fasce, General Manager of the Inn at Little Washington (Inn), stated he is responsible for the operations and financial growth for the Inn. He commented that the Inn's cost of running a business has been increasing because of items like offering additional benefits to help ensure staff retention. He feels that by increasing the zoning fees it will impact the Inn with costs in the thousands. They have paid \$7,800 in fees for current projects under review even before any work has been done. He feels that fees should be waived or reduced for work that will be revenue generating for both the Inn and the town. He feels the new fees are too burdensome.

Ms. Anstey asked if there was a way to see a comparison of the current rate with the new one to get a sense of the increase. Ms. Swift responded that there is not an apples-to-apples comparison because the proposed fee structure is completely different with new categories. Mayor Catlin suggested that it would be beneficial to show a percentage increase to better understand the change.

Ms. Swift suggested tabling the agenda item and forming a committee to further discuss the fee structure and report back to the TC.

The public hearing was closed at 7:45 p.m.

- (d) Discussion of tap fees: The discussion of tap fees was tabled.

- (e) Application for a boundary line adjustment (BLA): Mayor Catlin asked if anyone in the public would like to speak on the BLA.

Ms. Judy DeSarno said she attended the Rappahannock County Board of Supervisors (BOS) meeting regarding the proposed BLA. She is perplexed about some of the conditions listed in the draft response from the BOS that do not belong in the document because they have nothing to do with the BLA. Her opinion is that some of the conditions the council may be willing to do, but that they do not belong in this document.

Ms. Caroline Anstey said there is a lot of conditions in the draft BLA agreement that are not linked to the actual BLA application. She expressed concern regarding the condition in the document that states the county wouldn't need to have the ARB review plans for new construction on the courthouse complex. She questioned whether the town wants to concede the proposed conditions of agreeing to not have any future BLA applications and revenue sharing on meals and lodging taxes.

Ms. Kuhn urged the TC to remind yourself that other people who have sat on TC have worked hard to preserve our town. She feels there is a lot in the draft agreement that does not pertain to the BLA.

Mr. John Sullivan asked if the town attorney participated in the creation of the agreement. Mr. Crim responded that he had a preliminary conversation with Mr. Currey (Rappahannock County Administrator) and Mr. Goff (Rappahannock County Attorney) but did not participate in the agreement presented to TC. Mr. Sullivan doesn't like the County's approach to the BLA and feels the BOS approach is confrontational. He also feels it's not appropriate to waive ARB review, even the town appears before the ARB for approval. He feels the town will be forced to decide if these concessions are worth it to the town.

Ms. Nancy Buntin feels the agreement is very confrontational and that the County added the concessions to keep the TC from agreeing to do a BLA.

The public comments were closed and the TC expressed their thoughts on the draft BLA agreement submitted to the town from the BOS.

Mayor Catlin provided an overview of the process. He stated that the Commonwealth of Virginia has a clear process for handling BLAs; the property owner makes an application for a BLA, then a deliberation occurs by both effected localities, during which public comment is received, and if there is an agreement both entities, they independently petition the court into rule favorably on the BLA. This particular application for a BLA began 11 months ago. From the beginning, the town has supported the BLA. While we haven't met publicly yet on this specific application, the town has previously stated its support if a BLA benefits the community in which the town and county both live. An amendment to the 2006 comprehensive plan talked about the importance of BLAs and a resolution in support of BLAs was approved by TC in the summer of 2019. During the past nine months, the town has expressed its support of a simple BLA agreement. During this same period, the county BOS decided to pursue a list of concessions from the town based on an unsolicited document from the property owner's attorney last summer. This draft BLA agreement include proffers, proffers that usually come from the property owner. This attorney did not seek approval from the town on this draft BLA agreement before it was sent out nor was the town aware of its contents. The property owner's attorney does not represent the town or the Town Council. While Mayor Catlin doesn't fault the owner's attorney attempt with this draft agreement last summer, he sought to facilitate the moving the process keep it moving forward. While Mayor Catlin applauds the attorney's desire to expedite the process, he fears this has led others to maline his efforts for a simple BLA to the detriment of this whole process.

This BLA is about doing what's best for the community, this is not a slippery slope to a development of a property like Clevenger's Corner, there are processes in place for preventing that. This is about looking toward the future. We are a greying community and we need more young members to stay in our community so they can serve as teachers, emergency service providers, healthcare providers and staff for tourist and retail businesses. Right now, they cannot afford to live in this community, they need affordable housing. We also need affordable housing for our independent senior citizens to live in a close-knit community with nearby walking trails. If the current property owner for this BLA application was able to get approval for the first phase of this project, he should be able to continue to provide affordable housing if the need exists with a limited number of affordable housing units in this area. This is also about creating spaces that will enhance our greater community, allow the means to gather as a community and provide for non-profit, social and governmental service agencies to serve our whole community better . This BLA should be serving the whole community.

Mayor Catlin opened discussion to the TC to express their views.

Mr. Crim said a few issues rise to the top when looking at the revised draft agreement dated July 6, 2022. He stated that typically a BLA is just a simple BLA with no frills. Usually when there are frills proposed, the Commission on Local Government, an agency that reviews interjurisdictional issues and provides input about whether it's good for both entities involved, the community and the Commonwealth at large would rule on these. That is not being proposed here. The amendment to the ARB zoning ordinance to review county property is an issue to pay attention to. You cannot enter into a contract to change the zoning ordinance; you cannot contract away the "police power". The police power is a technical term that means the right of the government to regulate for the benefit of the public health, safety and welfare. Mr. Crim was surprised to see this concession in the draft agreement because it was discussed in his preliminary conversation with Mr. Curry and Mr. Goff; and it was determined it was not legally possible. He also made the TC aware that there are currently demands on the property owners in the agreement, but no law cited on how those demands would be enforced. He also pointed out that Chair Donehey's letter dated July 8, 2022 asks about the bond documents precluding connections to parcels not within town. Mr. Crim shared that the bond documents say the town cannot construct any part of system on lands which it does not own or does not have an easement to. The lender does not want you to spend capital on facilities the town does not control land on. The issue with extending water and sewer outside the town limits is one of prudence and control. It isn't prudent to extend the service outside of town when you haven't serviced all of the town yet and you run the risk of losing control of your utility system if you are extending it outside the town limits. There is precedent in a court case in Loudon County.

Mr. Whited stated that never before has it become a quid pro quo on any BLA by the insistence of the county. He feels the agreement is written in a way that the county doesn't think there can be a separate conversation about the items that do not directly pertain to the BLA outside of this document. He thinks the TC has proven tonight that they are open to having a conversation on topics that benefit the community, an example is lifting the constrictions on the use of the Town Hall and the former Baptist Church. He feels it doesn't make sense to go before a judge to legally commit to doing those things and presume our community cannot have a conversation with the county about these things moving forward. He pointed out the county's insistence that they did not need to appear before the ARB when the Vice Mayor of the town recently appeared before the ARB for a town project. He also didn't see how a provision could be included in the agreement that would preclude a landowner from applying to bring their property into town. He thinks the document is deeply flawed and doesn't think there is much for the TC to take action on.

Ms. Swift said the answer is "no concessions". A property owner came to the two entities requesting a boundary line adjustment, it's that simple – that's the agreement that should be done. The TC has previously addressed the Fire Department item, but it's no to the remaining concessions.

Mayor Catlin stated he is opposed to all the conditions but specifically to the ones that do not pertain to the property in question. These conditions are not germane to the issue of a BLA. As Mayor, he is more than willing to meet with the public and the BOS regarding any concerns they may have that were brought up in the BLA agreement. He recently met with the building committee regarding the obelisk on the Jett Street stub and told them he would be willing to

bring this up with the TC members if they needed it moved. He was surprised that in the next draft of the agreement not only did the BOS demand the town move it but also pay to have it moved. He feels the county will benefit 15k to 20k annually in additional property taxes if this parcel of land is developed. Compared to that number, any meals and lodging taxes that would come to the town is negligible. More importantly this would set a dangerous precedence on revenue sharing and jeopardize the town's independence as a jurisdiction. The issue is not about a small amount of meals and lodging tax or giving the county enhanced property tax revenue. It's about the common good for the entire community for a community-based use of the land. Use of the property should conform to the town's current zoning versus creating a 6th zone. The uses listed in the agreement do not even meet the county's zoning ordinances. It would be beneficial to have the property owner go through a planned unit development (PUD) process, which is already in place in the town. This would allow all citizens to provide comments on the development of the property and its use and limitations. This PUD process was successfully used in the approval of the Rush River Commons phase I approval process. Mayor Catlin is also opposed to the limitation of future BLAs. The town does not seek BLAs nor is it willing to accept all applications for a BLA. He feels this agreement would effectively pre-judge any applications. It's the owners' right to apply, and at that time an application can be judged solely on its merit. Virginia is a state where the property owner's rights are sacrosanct. If we ban any future applications, we are taking away the property owner's rights. He doesn't not agree with any concessions.

Mr. O'Connell stated that he concurs and wished we had come to this conclusion earlier. He suggests that TC tells the BOS there will be no concessions as quickly as possible.

Mr. Schneider stated that the matter of doing a BLA is a simple process between two government entities initiated by a request from a property owner. The town didn't initiate this process and is not building on the property as an owner. The town is reviewing the application submitted by a property owner so they can receive services they need for their processed intent for developing the land. During Planning Commission meetings, it was discussed that the town boundaries would need to be increased due to natural geographical boundaries. During the ground breaking ceremony of phase I of the Rush River Commons project, Kier Whitson, Hampton District Representative, praised the development and investment in the community. Mr. Schneider is surprised that in Phase II Mr. Whitson wants to shut down the option of additional housing which is contrary to the county's comprehensive plan. He also stated that if the county wants to make improvements to the courthouse complex the ARB will work together with them on reviewing the changes. He pointed out that the recent change to the façade of the Inn at Little Washington went through the ARB approval process. He shared that he is not in support of any concessions, and the TC should say "no" to all concessions in the agreement. He thinks precedence should be followed.

Mayor Catlin stated he feels there is a consensus on the Council. He proposes authorizing Mr. Whited to work with Mr. Crim on drafting a letter that reflects the thoughts expressed tonight and the legal rationale regarding the bond documents, and recommends it be signed by all members of TC.

Mayor Catlin made a motion to have Mr. Whited work with the town attorney to draft a response to the Board of Supervisors and Ms. Swift seconded and a roll call vote was taken:

Mr. O'Connell voted "yes" Mr. Schneider voted "yes"
Ms. Swift voted "yes" Mr. Whited voted "yes"
Mayor Catlin voted "yes"
The motion passed 5-0 with Ms. Goodine absent and with a vacant seat on TC.

(f) Update signatories for banking accounts:

Ms. Swift made a motion to remove Ms. Kuhn as a signator from the Town of Washington's general, water and wastewater bank accounts with Atlantic Union due to her having to move out of the Town and resign from the Town Council; and to add Mr. Joe Whited as a signator to the general, water and wastewater accounts; and add Mr. Brad Schneider as a signator to the general and water accounts. This action would confirm Mayor Catlin, Mr. Schneider, Ms. Swift, and Mr. Whited as signators on the Town of Washington's general, water and wastewater bank accounts; Mr. Schneider seconded and a roll call vote was taken:

Mr. O'Connell voted "yes" Mr. Schneider voted "yes"
Ms. Swift voted "yes" Mr. Whited voted "yes"
Mayor Catlin voted "yes"
The motion passed 5-0 with Ms. Goodine absent and with a vacant seat on TC.

PUBLIC FORUM: Mayor Catlin opened the public forum at 8:41 p.m.

Ms. DeSarno asked if the TC was sending back a simple BLA agreement to the BOS. Mr. Whited explained the town was sending the county an edited version of the BLA agreement based on the TC opinions expressed tonight.

The public forum was closed at 8:44 p.m.

ADJOURNMENT: Swift made a motion to adjourn the meeting at 8:44 p.m. and Mr. Whited seconded and a roll call vote was taken:

Mr. O'Connell voted "yes" Mr. Schneider voted "yes"
Ms. Swift voted "yes" Mr. Whited voted "yes"
Mayor Catlin voted "yes"
The motion passed 5-0 with Ms. Goodine absent and with a vacant seat on TC.

THE NEXT REGULAR MEETING OF THE TOWN COUNCIL IS
August 8, 2022.

Barbara Batson, Administrator/Town Clerk
Attachments:

Zoning Administrator's report
Ordinance for zoning fees
Rappahannock County Board of Supervisors response to a boundary line adjustment request