

# The Town of Washington

"THE FIRST WASHINGTON OF ALL"

June 13, 2016

7:06 p.m.

Town Council Meeting

Approved Minutes

Joint Meeting of the Town Council and the Planning Commission

- CALL TO ORDER: Mayor John Fox Sullivan called the Town Council to order at 7:00 p.m. Council members Gary Schwartz, Jerry Goebel, Mary Ann Kuhn, Katharine Leggett, and Gary Aichele were present. Council member Patrick O'Connell was absent. Town Attorney John Bennett and Town Clerk Laura Dodd were also present.

Mayor Sullivan asked for a moment of silence for those lost in the horrific massacre in Orlando.

He discussed that the public hearing would be held once a Planning Commission member arrived.

- MINUTES: February 8, 2016 and May 9, 2016: Ms. Kuhn gave Ms. Dodd grammar and typographical corrections for both sets of minutes. Ms. Leggett made a motion to approve the February 8, 2016 minutes as corrected and Ms. Kuhn seconded and the motion passed 6-0. Ms. Kuhn made a motion to approve the May 9, 2016 minutes as corrected and Mr. Aichele seconded and the motion passed 6-0.

Mayor Sullivan welcomed Kaitlin Struckman and thanked her making a video recording of the meeting.

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

Mayor Sullivan made a motion to approve the Treasurer's Report and Mr. Schwartz seconded and the motion passed 6-0.

Planning Commission: Chairman Schwartz reported that the Planning Commission had met in May and reviewed the proposal to sell Avon Hall and had looked at the Zoning Ordinance, Subdivision Ordinance, and the Comprehensive Plan and discussed in general the type of changes that might result from the sale. He discussed that the Planning Commission would not be meeting in June but would be meeting in July.

Architectural Review Board: Mayor Sullivan reported that the ARB had met and approved an application for an awning at Tula's and an application from Jackie Meuse for a fence.

- TOWN ATTORNEY: Mr. Bennett had no report.
- OLD BUSINESS: a). Approval of FY 2016-2017 Budget: Mayor Sullivan discussed that an advertised public hearing had been held on the FY 2016-2017

Budget and there had been no comments from the public. He asked the Council if there was any further discussion and there being none he asked for a motion to approve. Mr. Schwartz made a motion to approve the FY 2016-2017 Budget 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 “yes”

Mr. Aichele voted “yes”

And the Budget was approved 6-0.

## Joint Meeting of the Town Council and the Planning Commission

- JOINT PUBLIC HEARING OF THE TOWN COUNCIL AND THE PLANNING COMMISSION: Comprehensive Plan Amendment, Rezoning, and Subdivision of Avon Hall: Mayor Sullivan opened the public hearing for the Town Council.

Chairman Schwartz opened the public hearing for the Planning Commission. Planning Commissioners Judy deSarno and Brad Schneider were present. Planning Commissioner Fred Catlin was absent.

Mayor Sullivan discussed that there was a quorum for both the Town Council and Planning Commission.

Mr. Bennett discussed that the public hearing was to receive comments from citizens as to land use matters involved in the sale of Avon Hall as described in the attached Ordinance but not on the sale itself. He discussed that the Council and Planning Commission had to consider if the rezoning, subdivision and boundary adjustments, and Comprehensive Plan amendment were appropriate and if appropriate Council could move to another public hearing on the s

ale itself. He discussed that the land use questions were as follows (see attached plat): presently 4 parcels make up the tract commonly known as Avon Hall and what was being considered was four newly rearranged parcels, that parcel 3 would be reduced, parcel 2 would be a new subdivision created from parcels 1&3, that a portion of parcel 2 was currently zoned rural residential and a portion was zoned village residential and that the entire 1.5289 acres would need to be rezoned so that the entire parcel became village residential. He discussed that the adjustments to parcels 1, 3, and 4 and been approved by the Zoning Administrator as boundary line adjustments. He discussed that any further subdivision would have to come before the Planning Commission and Town Council.

He discussed that also under consideration was a Comprehensive Plan amendment that included an addition to the end of the first paragraph of Section C. Address the Avon Hall property investment and its capitalization, of III. Major Planning Issues the following:...”including a division of the property to allow the sale and preservation of the main house and the residue may be considered for further division for residential uses compatible with the main house. Creative residential projects which may include work force housing and clustering consistent with the Town’s unique fabric may be considered. The separate corner lot adjoining Leggett Lane may be considered for office, commercial or mixed uses compatible with what is an entrance corridor to the Town and the proximate uses.” He discussed that also under consideration was a Comprehensive Plan amendment to add to Section D. Objective, IV. Goals, Objectives and Policies the following number 3: “evaluate and permit, if appropriate, possible cluster development of

the rear portion of Avon Hall property including a mixture of work force housing and adequate compatibility with proximate residential uses.”

He discussed that parcels 3 and 4 would be retained by the Town and that a portion of parcel 4 could be used for work force housing.

Mayor Sullivan discussed that parcel 4 included the Wastewater Treatment Plant and so not all of the 5.2523 acres would be available for housing.

Milt Herd reviewed the history leading up to the sale and discussed that the intention had always been to monetize the value of Avon Hall to help pay down the Wastewater debt. He discussed the work of the Avon Hall Study Group on the issue and how they had held many public meetings and had received comments from the public. He discussed that he and Dan Clark had been brought into help. He discussed that some big ideas had come out of the discussions including that Avon Hall and the surrounding land and pond be retained and that there was the opportunity for the town to absorb some new, smallish, housing on the south end. He discussed that there was also the opportunity for commercial use of the Warren Avenue building. He discussed that the main idea was to preserve the historical character of the town even as it changed. He discussed that the proposals to Zoning Map and Comprehensive Plan matched the objectives that had come out of the Avon Hall Study Group.

Mayor Sullivan opened the public hearing for public comment.

Alan Comp, a town resident, congratulated the Town Council and the Planning Commission on the successful conclusion of the Avon Hall sale. He read a statement, attached, and discussed that this was a gentlemen’s agreement with no easements or guarantees and was only good faith promises. He expressed his regret about the selling of land along Leggett Lane which could have been used for small, affordable housing. He discussed that the back portion would probably be retained by the Town for a long time and not be used for potential work force housing and to talk about that parcel as a potential low-income housing location might be delusional and discriminatory. He discussed that there still needed to be thoughtful action by the Council and Planning Commission and that they needed to move to the larger issue of a more sustainable and engaged population in the Town. He discussed that with the sale of Avon Hall the only solution to the Town’s needs for more sewer hookups and people could only be solved with annexation which would have to be carefully explored.

Mr. Bennett discussed that he objected to the idea that the proposal was a gentlemen’s agreement and discussed how in the deed the retention of the historic appearance of the façade of Avon Hall and the pond would be deeded covenants which could be enforced in court.

Mr. Aichele thanked all the people who had spent time on the sale and discussed that while it was not a perfect solution, it was the best option. He discussed he shared Mr. Comp’s concerns about the future and he expressed that the Town would continue to look at the remaining acreage energy and focus. He discussed that there was no reason over the next few years some work force housing couldn’t be built off Mt. Salem Avenue without being delusional and discriminatory.

Mr. Brad Schneider discussed that people should not leave thinking that low income housing would be built on the back of Avon Hall as that was a decision that had not been made and that care and effort would be taken on how that property could best be used by the Town.

Chairman Schwartz thanked the Town and citizens for all the participation in getting this far. He discussed that the way to eat an elephant was one bite at a time and that the Town had taken a big bite out of the elephant with the proposals before the Town.

Mayor Sullivan thanked Mr. Comp for his help in having the Town look at the whole property and to have it think of it in pieces, and for trying to get them to a good and appropriate use. He discussed that he disagreed with Mr. Comp's idea that the Town was moving away from the notion of an increase of a certain kind of housing.

Mr. Bennett discussed that the last paragraph on the Ordinance discussed that it would be effective upon settlement and that he felt it should be amended and the last paragraph deleted and it should simply say that the Ordinance shall be in effect once adopted.

Mayor Sullivan closed the public hearing.

Mr. Schwartz asked for motion for recommending approval to the Council.

Mr. Schneider made a motion to approve granting a rezoning from rural residential to village residential for a parcel of Avon Hall, a subdivision, and Comprehensive Plan amendments as set forth in the attached Ordinance and Ms. deSarno seconded and a roll call vote was taken"

Chairman Schwartz voted "yes"

Mr. Schneider voted "yes"

Ms. deSarno voted "yes"

And the motion passed 3-0.

Ms. deSarno moved that the Planning Commission adjourn and Mr. Schneider seconded and the motion passed 3-0.

Mr. Aichele discussed that the matter had been fully discussed and reviewed and moved to adopt the Ordinance with the last paragraph amended per Mr. Bennett recommendation and Ms. Kuhn 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.

- NEW BUSINESS:                      a)      The Town will consider and may adopt a Resolution authorizing The Inn at Little Washington, LLC to conduct "fairs" in accordance with Article 1.5.1 and related provisions of the Town Code. It is contemplated that a weekly farmer's market would be operated in the garden courtyard at the parsonage on Main Street featuring local growers, crafts people, bakers and other local produce and products: Mayor Sullivan discussed that the Town had received an application from the Inn at Little Washington for the Inn to operate a weekly farmer's market. He introduced Joveve Murphy, who would be running the market.

Ms. Murphy discussed that the market would run on Sundays from 10 a.m. to 2 p.m. through October 30<sup>th</sup> and that 14 vendors had signed up with 8 vendors selling each week vegetables, eggs, honey, meat, jewelry, cheese, and bread. She discussed that most vendors would be local and from Rappahannock County but some would be from further away. She discussed that she hoped that the market could continue next year and into the future.

Mr. Aichele asked if any food would be consumed on the premises and who would be responsible for collecting and paying the sales tax.

Ms. Murphy discussed that someone might be selling barbeque and that the individual vendors would be responsible for collecting sales tax and paying them to the State.

Mr. Jay Brown, a town business owner adjacent to where the market will be held spoke in support of the market and discussed that it was unlikely to have a negative impact on the Town. He also discussed that customers would be able to use his restroom.

Mr. Aichele asked if the Trinity Church had been approached about parking and if Mr. McCarthy reviewed the application.

Ms. Murphy discussed that she had not approached the Church but customers would not be parking the Church lot and that the vendors would be parking in the Inn's employee lot.

Mayor Sullivan discussed that Mr. McCarthy had looked at the application and if the Council approved it then it would come under "Public Fairs" which were allowed in all districts.

Mr. Bennett led the Council through a review and determination of the applicable standards for public fairs:

a. Adequate insurance or like surety is in place to handle any liability attaching to the Town's residents:

Mr. Bennett discussed as the market would be on private property this was not really a Town issue. Mayor Sullivan discussed that the Inn would be taking care of the insurance.

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

b. The fair/carnival/event is in the best interests of the Town of Washington residents and businesses:

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

c. No unreasonable imposition on business and residents of the area will result:

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

d. Adequate public services exist to serve the expected attendees:

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

e. Provisions are in place to handle clean up and replacement of any damaged Town property:

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

Mr. Aichele made a motion to adopt a resolution to hold a fair to the end of the year 2016 based on the attached application letter and the presentation that evening with a review to be held at the conclusion of the season 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 resolution was adopted 6-0.

b). Consideration and possible appointment of a Zoning Administrator or interim Zoning Administrator for the Town in view of the retirement of John McCarthy effective June 30, 2016: Mayor Sullivan discussed that Mr. McCarthy would no longer be serving as Zoning Administrator after June 30<sup>th</sup> and the Town would need to focus on replacing him, perhaps in conjunction with the County, but as to an interim solution he asked the Council to consider Mr. Bennett until a long term solution could be addressed.

Mr. Aichele asked if Ms. Keyser, the new County Administrator would be available.

Mayor Sullivan asked Board of Supervisor Chairman Roger Welsh about Ms. Keyser's status.

Mr. Welsh discussed that Ms. Keyser would be assuming the role of Zoning Administrator until the County found a replacement.

After a short discussion, Mr. Aichele made a motion to approach Mr. Bennett to see if he would be willing to act as interim Zoning Administrator effective July 1, 2016.

Mr. Bennett accepted.

Mr. Goebel seconded the motion 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.

c). Airbnbs: Mayor Sullivan discussed that Airbnbs had become extremely popular and allowed people to rent out their homes over the internet. He discussed that both the Town and the County had recently had examples of people wanting to do Airbnbs. He discussed that the Town's statutes read that one would have to come before the Council to ask for a Special Use Permit to run a Tourist Home where they could rent out a room or a house and operate as such. He discussed that all over the country people were doing this without approval and that the County was also dealing with the issue and sending out violation notices. He discussed that there were probably people in town thinking of doing an Airbnb and that there was one person actively doing it. He discussed that although the Town needed to deal with the issue the state of Virginia had passed legislation, subject to a conditional review next year, that would allow Airbnbs to operate without regulation from the local jurisdictions like towns and counties but rather they would be regulated by the State. He discussed it had always been true that when someone did something commercial the neighbors would be concerned about the scope including size, frequency, and what about the neighborhood.

Mr. Schwartz discussed that from the Ordinance an Airbnb would be considered a Tourist Home and if there were changes to that then to would have to be addressed in the Ordinance. He also discussed that if an Airbng was a Tourist Home then the Town should be able to collect Meals and Lodgings taxes. He discussed that if regular B&Bs moved over to Airbnbs it would have a negative impact of the Town.

Mr. Aichele discussed the State law and that the State currently recognized that municipalities and counties regulated B&Bs and that under the new law all taxation would be regulated by the State but due to opposition the State had tabled it until further review.

He discussed that until the State enacted the law, people who operated a B&B without an SUP for a Tourist Home were in violation of the Zoning Ordinance and Meals and Lodging Tax Ordinance. He discussed that the Town needed to approach anyone and try to get them to go before the Council and comply. He discussed that if people were concerned about the new law they should contact Richmond.

Mr. Bennett discussed that the Council could refer the matter to the planning Commission. He also discussed that the Council could go to the Virginia Municipal League and ask them to lobby in Richmond on the Town's behalf.

Mayor Sullivan discussed that John McCarthy had gone to Richmond to lobby on behalf of the County. He discussed that in his view anyone renting out for less than 30 days should be held to the same standards as regular B&Bs and if they need to pay taxes they should pay them. He discussed that the Town might want to look at the definition of a B&B.

Phil Irwin, county resident, spoke against Airbnbs and expressed his concerns that Airbnbs did not have to comply with the same regulations as permitted B&Bs.

Jock Nash spoke against Airbnbs and their possible negative effects on the community.

Mayor Sullivan discussed that there appeared to be an individual operating an unpermitted Airbnb on a small scale and although he did not want to make it an individual issue, he did want to work things out.

Mr. Goebel discussed that there was someone in Town using Airbnb who had a Special Use Permit to operate a Tourist Home.

Mr. Aichele discussed that Airbnbs listings were available online.

Sharon Proper asked if house sitting was the same as an Airbnb.

Mayor Sullivan said no.

Mayor Sullivan discussed that the Town needed to authorize a public hearing on the sale of Avon Hall.

After a short discussion, Mr. Schwartz made a motion to continue the meeting until Tuesday, July 5 at 7:00 p.m. to hold an advertised public hearing and discussion and intention to adopt an ordinance for the sale of Avon Hall and Mr. Goebel 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.

Mayor Sullivan made a motion to advertise a public hearing on July 5, 2015 on the sale of Avon Hall and Ms. Kuhn seconded:

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.

d). Consideration of proposal by Konick to execute settlement or release between Town and him concerning the case Konick v Town of Washington and related matters, and/or a general release: Mayor Sullivan discussed that he wanted to bring people up to date on the issue of Konick v the Town. He discussed that there had been an inaccurate headline in the newspaper that stated that there had been

a settlement between the Inn, Mr. Konick, and the Town as no settlement had taken place although the Council would be going into closed session to discuss it. He reviewed the lawsuits of Konick v the Town, which Mr. Konick lost twice and was fined twice by Judge Parker, Konick trying to get the Virginia Department of Transport to repeal the Stub Street decision and failing, Konick taking the Stub Street decision to the State Transportation Board and failing, and then taking it back to Judge Parker and failing, and Konick appealing his original suit to the Virginia Supreme Court and getting rejected by all three judges. Mayor Sullivan discussed it was 6 to 0 against Mr. Konick. He discussed that the Town was no longer involved in any litigation.

- PUBLIC FORUM: Mayor Sullivan opened the Public Forum:  
There being no public comments Mayor Sullivan closed the Public Forum.
- CLOSED SESSION: At 8:56 p.m. Mr. Aichele made a motion to go into closed session in accordance with the provisions of Section 2.2-3711A.7 for consultation with the Town Attorney relating to actual litigation, namely Konick v. the Town of Washington and Ms. Leggett 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.
- OPEN SESSION: Mayor Sullivan reconvened the public session at 9:35 p.m. and Mr. Bennett asked each member to certify that to the best of their knowledge:

Only public business matters lawfully exempted from open meetings 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:

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

Mr. Goebel made a motion that Council authorize the Town Attorney to meet with Mr. Konick to discuss his unsolicited proposed mutual settlement and release agreement and that continued consideration of this whole matter be continued to the July 5, 2016 Council meeting and Mr. Aichele seconded the motion 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.

Mr. Aichele made a motion to amend the subject matter on the agenda for the July 5, 2015 meeting to include the consideration of a settlement and release with Mr. Konick, and that the advertisement for the July 5, 2016 meeting be amended 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. Leggett voted “yes”



Mayor Sullivan voted “yes” Mr. Aichele voted “yes”  
And the motion passed 6-0.

- CONTINUED MEETING: At 9:42 p.m. Mr. Schwartz made a motion to continue the meeting until July 5, 2016 and Ms. Kuhn seconded and the motion passed 6-0.

Respectfully submitted,

Laura Dodd

Attachments:

Treasurer’s report

Additional Bills to be Paid

Bills to be Paid

Approved 2016-2017 Budget

Alan Comp comments

Resolution Appointing Interim Zoning Administrator