

The Town of Washington

"THE FIRST WASHINGTON OF ALL"

October 11, 2016

7:00 p.m.

Town Council Meeting

Approved Minutes

- CALL TO ORDER: Mayor John Sullivan called the Town Council to order at 7:05 p.m. Council members Jerry Goebel, Mary Ann Kuhn, Patrick O'Connell, and Gary Aichele were present. Council member Katharine Leggett was absent. There was a vacant seat on the Council due to Gary Schwartz's resignation. Town Attorney John Bennett and Town Clerk Laura Dodd were also present
- MINUTES: July 5, 2016: Mayor Sullivan discussed that Ms. Kuhn had provided Ms. Dodd with various grammatical and typographic corrections to the July 5, 2016 draft minutes. Mr. Goebel made a motion to approve the July 5, 2015 minutes as corrected and Mayor Sullivan seconded and the motion passed 5-0.
- 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.

Mr. O'Connell made a motion to approve the Treasurer's Report and Ms. Kuhn seconded and the motion passed 5-0.

Planning Commission: Mayor Sullivan discussed that the Planning Commission had held two special meetings on the Comprehensive Plan on Saturday, October 1, 2016 and on Monday, October 3, 2016 which had been facilitated by Milt Herd and which had been extremely productive in getting citizen input.

Planning Commission Brad Schneider discussed that the Planning Commission had gone through some exercises where public input had been gathered and Mr. Herd had consolidated that information and that the Planning Commission was now working on how to boil that information down and work it into the Comprehensive Plan. He discussed that the Planning Commission would probably be holding further work sessions.

Mayor Sullivan discussion that in addition to those additional Planning Commission work sessions the Planning Commission would also be holding joint meetings with the Town Council on the Comprehensive Plan so there was still time for people both inside and outside of town to share their opinions.

Mr. Aichele asked if a new Chairman had been elected.

Mr. Schneider discussed that Fred Catlin had been elected Chair.

Planning Commissioner Gail Swift discussed that Mr. Schneider had been elected Vice-Chair and that she had been elected Secretary.

Mr. Aichele discussed that he was pleased to see people coming forward as the Planning Commission reorganized and that he was looking forward to seeing the Planning Commission move forward on the Comprehensive Plan.

Architectural Review Board: Mayor Sullivan reported that there would be no ARB meeting in October as there were no applications.

Mayor Sullivan discussed that there had been a lot of hard work done on the Christmas Parade, which would be held on December 6th and that it was being organized by Keir Whitson with help from Judy deSarno and others. He discussed that the eating and drinking component was being expanded and he thanked everyone for their hard work in the parade.

Mr. O'Connell discussed that the Inn at Little Washington would be holding a Christmas Farmers' Market on the day of the parade.

Mayor Sullivan discussed that the Virginia Garden Club held an annual week long garden and hour tour in the spring throughout the state which over 20,000 people attended. He reported that the town of Washington and Rappahannock County would both be on the tour for the first in April and that meant some 750 people would be showing up at each location and that he hoped to have the town looking particularly spiffy for the event.

- TOWN ATTORNEY: Mr. Bennett discussed that the Council had authorized at the last meeting the advertisement of the sale of the corner lot at Warren Avenue and Leggett Lane, which was a new lot that had been slightly rearranged at the sale of Avon Hall. He discussed that the sale had been advertised in the Rappahannock News and that he had required that anyone interested get a written proposal, contract, or concept to him no later than October 31, 2016. He discussed that he would then gather all information and make necessary inquiries at that point to be able to present the results of the advertisement to the Council. He discussed that he wanted to clarify that the ad mentioned that the Council would consider all sorts of proposals, including rezoning, mixed-use, and higher density proposals and possible demolition of existing structures. He discussed that he wished to emphasize the word consider and the ad was just to solicit whatever might be the best use for the lot, which he discussed was a very important place as part of an entrance corridor of the town. He discussed that he wanted to make clear that the intent of the ad was that the Council was open to all sorts of proposals and that while there might be support for a certain proposal no decision had been made and that the intent was to put all information out before the Council at the same time so they could make the best decision possible. He discussed that someone had spoken as though the decision had been made to demolish the structure and that was not the case and that he did not recall demolition as being a firm option that had been discussed at a Council meeting.

Mr. Aichele discussed that Mr. Bennett was essentially operating under the same structure as the Council had approved regarding the larger Avon Hall question and that the language of that authorization was to solicit any reasonable proposal for the property. He discussed that in his view the rationale for this remnant lot was exactly the same and that the Council needed to be open to any reasonable proposal to develop any portion of Avon Hall. He discussed that the Council had a fiduciary obligation to the citizens of the town and the larger community to preserve as much value of the resources of the town as possible. He discussed he was disturbed the mood or tenor of certain people in town who seemed to think decisions had been made when no decision had been made. He discussed that he had personally heard from three people who had had serious doubts if it was feasible to restore the building in question. He discussed that the Council had made it possible through the sale of Avon Hall for the Warren Avenue lot to be further

subdivided in an effort to try to maintain as many opportunities as possible to gain as much for the Town from the sale as that was the Council's duty. He discussed that the Town had been trying for the last several years to bring the Town's income closer to its expenses.

He discussed that he felt that it was fortunate that the sale Avon Hall had been for a reasonable dollar value with owners who would preserve and restore the structures to its former glory. After some further discussion he discussed that he hoped the Town would receive several offers for the lot and that he would be disappointed if there was any movement to foreclose options on the property.

Mayor Sullivan discussed that he agreed with a lot of what Mr. Aichele had discussed and that he didn't see that was any effort to foreclose any options. He discussed that most anyone he knew was concerned about both the corner lot and the two Parham properties and that some discussions were ongoing with Ms. Parham about options for her properties,

Ms. Kuhn discussed that the Council had received two letters, one from Alan Comp and one from the Historical Society, expressing an interest in preserving the historical significance of the building and that she thought that everyone on the Council was interested in keeping the lot as a significant part of the town.

Mr. Schneider discussed that from the Planning Commission's point of view the Planning Commission was looking at these kinds of issues such as what are the historical parcels and what parcels presented opportunities for the town. He discussed that the deposition of the property might precede the Comprehensive Plan review finalization but it had come up that how the property changed would impact the future as it was a significant as a gateway entrance to the town.

- **PUBLIC HEARING:** to consider and grant a waiver as to minimum lot size for a boundary line adjustment among TM 20A-1-21A, TM 20A-1-21B and TM 20A-1-21C, owned by the Inn at LW, LLC where the resulting lots, although larger, are still below the current minimum lot size for Rural Residential properties. The old and new lots are shown on the survey materials of Clark Land Surveying: Mayor Sullivan opened the public hearing at 7:30 and he read the above agenda language for the hearing.

Mr. O'Connell recused himself and discussed that David Fiske would be representing the Inn at Little Washington as the applicant.

Mr. Bennett reviewed the attached final plat and discussed that the intent of the application was to allow the creation of two non-conforming lots out of three non-conforming lots, which would be larger than the existing three lots. He discussed that as a portion of the lots were non-conforming lots zoned rural residential of less than five acres even though the two new lots became larger, it required an exception granted to create lots less than the five acre minimum. He discussed that the application made sense as a land use.

Mr. Fiske discussed that these lots had been originally owned by Newbill Miller with the intention that they be sold as individual home sites but Mr. O'Connell had purchased them with the intention of preserving the open space. He discussed that the intention was now to have a portion stay open space and also to allow Mr. O'Connell to buy his own lot, which was now owned by the Inn at Little Washington.

Mr, Schneider asked if the easement shown on the plat would go away.

Mr. Fiske discussed that it would remain as it was part of the original subdivision. He discussed that the lots had been originally oddly shaped due to the fact they were designed to allow for drainfields which were no longer needed as the front lots now had sewer.

Mr. Bennett discussed that the easement would not go away.

Mr. Aichele discussed that during a prior Boundary Line Adjustment request considered by Council someone had argued that a clause in the code had a requirement of a hardship and he asked Mr. Bennett if based on Mr. Bennett's recommendation as the Town current Zoning Administrator was he certain that the Town would not have to revise the decision made that night because of an argument over the hardship provision.

Mr. Bennett discussed that if the answer was certain there wouldn't be lawyers but he was familiar with the hardship argument raised before, for which he had not been present. He discussed that the Town had an ordinance which was being utilized in this case and which was being followed to the letter and that there was no authority which directly said that the Town's ordinance was invalid.

Mr. Aichele asked if Mr. Bennett was confident that what was being done was not a subdivision and where a hardship had to be proved and asked was it a legislative act based on the Town's ordinance and if it was a matter of judgement by the Town Council.

Mr. Bennett discussed that the case law to go before the Board of Zoning Appeals (BZA) had a different standing than the standard which Council might exercise and that in his view it made it more of a legislative matter than what was called an administrable action where the BZA had to apply the letter of the law which required the showing of hardship which was not the case for the ordinance the Council acted under.

Mr. Aichele discussed that he raised the question so that it was before the Council and the public and that it had been researched by Mr. Bennett as both the Zoning Administrator and as Town Attorney and that the question which had been raised before, when Mr. McCarthy had been the Town's Zoning Administrator and Mr. Bennett was Town Attorney, had been answered and the Town could move forward. He discussed that although this application was similar it was not an identical situation and he wanted to be sure that it was not from a lack of haste or anything else but it was because it was the obligation of the Town Council to hear the application properly before them. He discussed that it made sense to him to take something non-conforming and make it less non-conforming and that it also made sense for the property owner.

Joseph Whited discussed that the lot identified as his on the plat was not his but Mr. Arthur's.

Mayor Sullivan closed the public hearing.

Mr. Aichele made a motion that in accordance with Article 4-1-5 of the Town ordinance that the modification of Section 5-1 of the minimum lot size be granted to permit the rearrangement of lot lines as shown on the survey by Clark Land Surveying stamped on September 22, 2016 so as to create the lots shown on the survey.

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

Mr. Aichele voted "yes"

Mayor Sullivan voted "yes"

Mr. Goebel voted "yes"

Ms. Kuhn voted "yes"

And the motion passed 4-0 with Mr. O'Connell being recused.

Mr. O'Connell rejoined the Council.

- OLD BUSINESS: a). Council member vacancy: acceptance of letters of interest: Mayor Sullivan discussed that there was a vacancy on both the Town Council and the Planning Commission and that several people had expressed interest. He discussed that the letters of interest in being appointed should be submitted to the Town

Council by November 7, 2016 and that the Council position was to fulfill a term that expired June 30, 2018.

b). Wastewater Treatment Plant Sand Filter Repair

Update: Mayor Sullivan introduced Cody Hoehna and TJ Jenkins from ESS and asked them to update the Council on the sand filter repair.

Mr. Hoehna discussed that during the sand filter sand replacement, previously approved by the Town Council, that ESS had discover cracks in the fiberglass filter tank, which by the next day had grown to point where the structural failure of the filter was imminent. He discussed that the filter had to be by-passed and the discharge of effluent without filtration had resulted in violations to the discharge permit from September 15th onward. He discussed that the Mayor had approved the bringing in of a fiberglass contractor to inspect the tank, who after the inspection proposed a \$20,000 repair. He discussed that Don Hearl of ESS had contacted the filter system vendor and had gotten them to agree to a \$10,000 repair for which they would pay for \$5,000 and the Town would pay for the remaining \$5,000. He discussed that if approved, ESS hoped to have the filter repair finished and to stop the filter by-pass by October 20th.

There was a long discussion regarding the repair during which Mr. Hoehna answered questions regarding the warranty on the tank, and that there was none, and that he couldn't answer how long the repair would last or if there would be a warranty on the repair. He discussed that to replace the tank would cost about \$45,000 plus the cost of the contractors bring the total cost close to \$100,000.

During the discussion, Mr. Schneider discussed that it looked to him like the tank had been dropped at some point.

There was some discussion of whether the Town should get specs and have the repair evaluated and to also have the procedure better outlined before agreeing to the proposal.

Alan Comp discussed that the Town was out of compliance with its discharge permit and needed to show due diligence in getting the repair completed.

Mr. Aichele made a motion to approve the \$5,000 for the fiberglass repair plus the other aggregate costs for ESS, which brought the total to \$7,750 and that ESS try to obtain as long as a warranty on the repair as possible, although the warranty itself would not be a condition of approval and Mr. O'Connell seconded and a roll call vote was taken:

Ms. Kuhn voted "yes"

Mr. Goebel voted "yes"

Mr. O'Connell voted "yes"

Mr. Aichele voted "yes"

Mayor Sullivan voted "yes"

And the motion passed 5-0.

- NEW BUSINESS: a). There was no new business.

- PUBLIC FORUM: Mayor Sullivan opened the Public Forum:

Mr. Schneider expressed his concerns regarding the fence, which was in disrepair, and the wall that was falling down along side Town Hall and asked if the Town could get a quote on repairing them. He also expressed his concerns that the boxwoods in front of Town Hall were a hazard as they were overgrowing the sidewalk. He also discussed that because of the steep slope in front on the building, there needed to be a railing installed along the sidewalk.

Mr. Goebel discussed that he had contacted Williams Tree Service and that they would be coming to trim back the boxwoods and the overgrown trees around Town Hall.

Mayor Sullivan discussed that the fence and stonewall had been an eyesore for a long time but in the Town's view it had not had the financial resources to expend on something like that while dealing with the selling of Avon Hall but now that the Town was no longer paying off the Avon Hall loan it might be time to identify four or five projects that the Town could do to make the town more attractive.

Mr. Bennett discussed that there might be a vocational program that the Town could utilize to help with the fence and wall.

Mr. Aichele asked if the Town had gotten a current estimate for a new hydrant to replace the off-line hydrant on Piedmont Avenue as discussed at the last Council meeting.

Ms. Dodd discussed that the Town needed to refocus on that.

Mr. Aichele asked that the Town get a new estimate to have available for the Council to review at the next Council meeting. He also discussed that several people had expressed their concerns that there were no trash cans in town which encouraged people to litter.

Ms. Dodd discussed that there were a few trash cans on Gay St. and a few on Main Street.

Mr. O'Connell discussed that the Inn at Little Washington took care of two of the trash cans.

Mayor Sullivan discussed that a few cans had been removed in front of the County buildings as people were putting house trash in them instead of taking it to the dump.

Ms. Kuhn discussed that Nancy Buntin had asked back in July that Mr. Bennett have a microphone as he was often difficult to hear and understand.

After a short discussion, Ms. Dodd discussed that the Town would look into getting more microphones and to replace the current flat ones.

Mayor Sullivan closed the Public Forum

- ADJOURNMENT: At 8:30 p.m. Mayor Sullivan moved to adjourn and Mr. Goebel and the meeting was adjourned.

NEXT SCHEDULED COUNCIL MEETING TO BE HELD ON NOVEMBER 14, 2016

Respectfully submitted,

Laura Dodd

Attachments:

Treasurer's report

Additional Bills to be Paid

Bills to be Paid

Inn BLA application and Clark Land Survey Plat