

Town of Haymarket – Council Session of June 4, 2012
15000 Washington Street-Haymarket, Virginia 20169
Mayor Pamela E. Stutz

Call to Order

Mayor calls the meeting to order at 7:00 p.m.

Pledge of Allegiance

Roll Call

Tobias, Leake, Cole, Stutz, Scarbrough, Kenworthy, Weir

Public Hearing – Fiscal Year 2013 Budget

Mayor reads aloud the public hearing notice (attached)

Mayor asks if anyone from the public would like to comment on the proposed budget

In favor: *No public comment*

Opposed: *No public comment*

Mayor Stutz closes the public hearing @ 7:03 p.m.

Citizen's Time

Ms. Frasier – 9912 Par Drive, Nokesville

Ms. Frasier is a member of the Haymarket Baptist Church. She is here to ask the Council to please give the Haymarket Baptist Church due consideration. They want to pave to their parking lot and improve their church. They would like recognition that they are an asset to this town, they bring a lot of people into the Town several days per week. They ask that the Town please give the church the utmost consideration.

Max Loudoun – Heritage Hunt

Member of Haymarket Baptist Church and a member of the church's building committee. They have been working for a long time to expand their church. There is no higher structure in their church than the members. It took a while to get decisions made, but They would like to build a sanctuary and pave their parking lot

Susan Edwards

6938 Little John

She would like to say that she was out at several events over the past couple of weeks, Fairfax County, Loudoun County, and Prince William County. At every event someone said to her what is going on in Haymarket. The council is supposed to be here to move the town forward; she found this to be very embarrassing. She sat on this council and left because of the bickering and fighting. She is hoping for positive results with this new council. The residents want good things to happen in this town, they don't want to see the Town's name in the paper every week, just for bullying each other.

Minutes

Tobias motions to approve the minutes of May 7, 2012, with corrections noted to the Clerk, Kenworthy seconds;

Corrections noted to the Clerk

Ayes: 6 Nays: 0

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PACE West School

Weir asks if we are going to address the issues that were presented in the agenda for the special meeting request of May 24, 2012 that did not occur. Weir comments that the items were unfinished business. Town Attorney reminds that the carry-over of the items from that meeting that did not occur was requested. He would like to know where we stand with regard to PACE West officially. Weir suggest that we disavow the letter to the Lt. Governor and the letter to Senator Black

Weir moves to disavow the letter to Lt. Governor Bolling and to Senator Black and make the Town's position clear that we are not interested in taking possession of PACE West and that the Town takes no position, Tobias seconds;

Discussion: Leake asks are we not going to support our community events, the common area, the ideas that the community has been crying out for years now. Tobias responds no, that is not what we are saying, we are saying that the Town is not taking any position with regard to any of the formal offers or acquire PACE West for our own use. Tobias reminds that the letter says the Town would like to take possession. Cole does not think we should disavow the letter because the letter does not obligate the town in any way. Cole believes we should issue a follow up letter that the Town does not want to purchase the property. Weir asks if we affirm the letter, four months after the fact, are we taking the position that we do want to take possession of PACE West in a monetary commitment, because if we do that then we can't support the other groups. If we affirm the letter then we affirm everything in the letter. Tobias reminds that the letter says the Town wishes to take possession, if we take possession of the property then we must buy it. Cole says we have made way too much of this letter, Weir disagrees.

**Tobias-Yes, Leake-No, Cole-No, Scarbrough-No, Kenworthy-Yes, Weir-Yes
Mayor breaks tie with No, MOTION FAILS**

Cole motions to make the official position of the Town that we would like to see a community center at the location of PACE West School, this does not obligate us to any particular agreement, but we are pursuing that option, be it with one group or multiple groups, we are pursuing that option, Leake seconds; Discussion: Weir asks where the line item for funding on that will be and what we will tell various groups that have competing offers on the property. Cole: this is not that big of a deal. Tobias asks why if we are going to be so non-committal, why make this motion. Tobias asks if this motion has anything to do with the Town being party to purchasing the property, Cole says if that happens to be part of the deal and we can do that, then great, Cole thinks the letter was a good thing; it's something that the community supports. Weir is happy the community knew before the Town Council knew.

Vote to call for the Vote on the Motion:

Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Vote on the motion:

Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Mayor reminds that there is not agenda, the meeting did not occur. Weir reminds that since the meeting did not occur, the items carry over. The Town Attorney responds that yes, the items carry over. Mayor asks does he [Weir] want her resignation. Weir says no, he wasn't going to ask for it.

Back to the letter: He has received several complaints from the "supporters" referenced in the letter. He would like a letter sent to the parties listed on here. She will talk to them; she will not

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send a letter. He reminds that she was to have spoken with Alyson Satterwhite and still has not yet. Leake comments that he has spoken with Ms. Satterwhite several times.

Building Official's Report – Jim Lowery

Weir asks about Alexandra's Keep occupancy permits. He responds that two occupancies have been issued. Weir asks where we stand on the rest; Mr. Lowery comments that it will be approximately a month on the other four. Lowery says before the end of the year all twelve should be complete. Tobias asks about protection of the Old Post Office, should we be fencing it or take other measures to insure public safety?

Fire Marshall Duties: Prince William County has requested a meeting regarding the duties of the Fire Marshall and taking over that service within the Town's limits. Tobias asks if there is anything that gives PWC the power to take over. He thinks PWC is looking for additional work for their employees.

Police Report – Chief James Roop

Tobias asks that the rabid animal issue...inform clerks so that the public is aware. Tobias asks if the parking violations are from Hunting Path. Mayor asks about Sunday night DUI checkpoint. There was one DUI. The Chief reminds that we are in a Click-it or Ticket campaign right now, so buckle up! They will be handing out literature during this campaign.

Treasurer's Report – James Naradzay, Chief Financial Officer

Tobias asks if there are more definitive numbers from the Capital Improvements Projects.

Capital Improvement Projects

Tobias would like to see which projects (attached) have been completed this far.

- Phone Install this Thursday, that is the total \$2,964
- Quick Books Replacement is ordered
- Filing cabinets are delivered
- Radios have been delivered
- Web site will be live sometime in July
- Renovation Upstairs, 2nd bathroom is almost complete, however \$800 more is needed.
- Water and Sewer connection – finding that \$15,000 will cover the cost of running the lines only, tap fees need to be paid (could be \$15,000) TM recommends that we put this on hold. Mayor asks why this item was chosen in the first place.

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Tobias motions to appropriate the following Capital Improvement Expenses

\$2,964	Operating Expenses:Office Equipment
\$11,136	Operating Expenses:Office Supplies
\$3,358	Office Expenses:Office Equipment
\$1,860	Expenses:Office Equipment
\$46,314	CIP Repairs-Capital Improvements: Police Equipment
\$7,500	Town Owned Property:Internet & Website
\$8,800	Town Owned Property:15000 Washington Street:Tenants:building repairs
\$20,000	Events:Holiday decorating

\$101,932 Total

Cole seconds;

Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

****Town Council Meeting set for June 18, 2012**

Tobias asks about Quick Books replacement, when that will take effect. Treasurer responds that by January 1, 2013 we should be implemented fully.

Treasurer would like to meet with Mayor and Tobias on Friday @ 1:00 p.m.

Zoning Permit Applications

Remove the Certification of Zoning Compliance for Arlington Imports, A&A Auto, & S&W Auto Sales from the agenda packet. Mayor asks how many auto dealers there are still in Town. Weir responds that there are six total. Five on the Gossom property and one located at 15161 Washington Street.

Weir moves to approve zoning permit #ZP20120302 Highland Motors to be located at 15017 Washington Street, #1, pursuant to 58-381 (a), Scarbrough seconds;

Ayes: 6 Nays: 0

Cole moves to approve zoning permit #ZP20120504 for B&W Barrel & Choke to be located at 6628-B James Madison Highway, pursuant to 58-257(6), Tobias seconds;

Ayes: 6 Nays: 0

Town Center Property Plot Plan

What we are asking the council is to authorize the Town Manager to proceed with the rear addition on the old post office.

Leake motions to authorize the Town Manager to proceed with the construction of the addition to the Old Post Office Building, 15020 Washington Street, Cole seconds;

Discussion: Tobias asks about the purpose of this addition for handicapped building, he is concerned about the compromise of the historic nature of the building or its ability to be registered. Town Manager responds no, it would not affect the ability for the building to be State or nationally registered; he has spoken with Virginia Department of Historic Resources. Tobias would like to know if that has been put in writing. The Town Manager believes it is in his emails.

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Mayor calls for a short recess for the Town Manager to research his emails: Called back to order at 8:15 p.m.

Town Manager could not find the emails. He has several letters from her but none address this issue specifically.

Tobias-No, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-No
For the record Tobias' no vote is based solely on the addition potentially affecting the historic status of the building.

Town Planner Updates

Staff has been in contact with Sheetz. They are debating on whether or not to renovate the building or tear it down and rebuild. Tobias says rumor has it that Sheetz may move across the street, out of town. With either scenario they will not be closed.

Closed Session

Tobias motions to enter into closed session pursuant to §2.2-3711 A(7) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, namely to obtain legal advice regarding probably litigation for the Washington Street Enhancement Project, Kenworthy seconds;

Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Stutz-Yes

The Town Attorney calls the Council back in to session at 9:00 p.m.

Certification of Closed Session

Tobias motions that the Council of the Town of Haymarket does hereby certify that to the best of each member's knowledge, only public business matters lawfully exempt from the open meeting requirements by Virginia law were discussed in the closed session, to which this certification applies, and only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by Council, Scarbrough seconds;

Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Stutz-Yes

Weir moves to allocate \$3,500 for a boundary survey for GPIN #7397-09-3544, funds to come from Streetscape expenditures line item, Cole seconds

Roll Call: Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Building Renovations

Not much work has been done on the old post office until tonight's approval of the addition. Hoping for completion in September.

Hulfish House work has continued. Roof is on. Interior 1st floor is open. There is still more clearing to do upstairs. We have talked with Doris Buck/TVT, she would like to occupy by September. With all the rain, the basement is still dry.

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Hazard Mitigation Plan

Cole motions:

WHEREAS, the Disaster Mitigation Act of 2000, as amended, requires that local governments develop, adopt, and update natural hazard mitigation plans in order to receive certain federal assistance; and, WHEREAS, the Northern Virginia Regional Hazard Mitigation Plan has been prepared in accordance with FEMA requirements at 44C.F.R.201.6; and, WHEREAS, a Mitigation Advisory Committee (*MAC), comprised of representatives from the Counties of Arlington, Fairfax, Loudoun, and Prince William; the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park; and Towns of Clifton, Dumfries, Haymarket, Herndon, Leesburg, Middleburg, Purcellville, Occoquan, Quantico, Round Hill, and Vienna, was convened in order to assess the risks of hazards facing the Northern Virginia region, and to make recommendations on actions to be taken to mitigate these hazards; and, WHEREAS, a request for proposals was issued to hire an experienced consulting firm to work with the MAC to update a comprehensive hazard mitigation plan for the Northern Virginia region; and, WHEREAS, the plan incorporates the comments, ideas and concerns of the community and of the public in general, which this plan is designed to protect, ascertained through a series of public meetings, publication of the draft plan, press releases, and other outreach activities; and BE IT RESOLVED that the Town of Haymarket recognizes that recent events of the Virginia Earthquake, Hurricane Irene, and Tropical Storm Lee are not captured in the current FEMA approved pending adoption update of the local Hazard Mitigation Plan. Being committed to mitigation planning and activities, Haymarket, as part of the next update, will fully endeavor to identify, evaluate, and include these events and their impacts. NOW THEREFORE, BE IT RESOLVED by the Haymarket Town Council that the 2010 Northern Virginia Hazard Mitigation Plan Update is hereby approved and adopted by the Haymarket Town Council on May 7, 2012, and resolved to execute the action in the plan. A copy of the plan is attached to this resolution.

Scarborough seconds;

Roll Call: Tobias-Yes, Leake-Yes, Cole-Yes, Scarborough-Yes, Kenworthy-Yes, Weir-Yes

Trash Removal & Recycling Contract

Three bids have been submitted. The Town Manager asks for the authority for he and the Town Attorney to negotiate with AAA the final details of the contract. Weir asks if there will be an opt-out clause. Yes there will be an opt-out clause.

Cole moves that the Town Council approve the Trash and Recycling contract with AAA and authorize the Town Attorney and the Town Manager to negotiate the final terms of the contract, Kenworthy seconds;

Roll Call: Tobias-Yes, Leake-Yes, Cole-Yes, Scarborough-Yes, Kenworthy-Yes, Weir-Yes

Town Attorney Position

For the record Lisa Baird, interim counsel for the Town, recuses herself from this discussion

Leake motions that the Town Council reject the proposals from the RFQ for the Town Attorney services, and authorize the Town Manager to negotiate the substance and form and enter into on behalf of the Town, an agreement with John Bennett, the Town's former counsel, at the rates as outlined in his email dated May 25, 2012 and to have a provision in the contract of severance pay equal to six months of his average billings should the council wish to terminate without cause and without consent of at least two-thirds of the entire town council. The Town Attorney shall report to the Town Council, with his day to day point of contact to be the Mayor and/or Town Manager, Cole seconds;

Tobias comments that there are numerous problems with this; this council shouldn't bind the next council and make the next council work with an attorney they have not chosen, this council is currently being served by a qualified attorney, she has shown her qualifications and has served us well in the interim. The RFQ states there would be a process, a selection committee would be

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formed. The council just received the proposals on Thursday/Friday of last week. Thirdly, John Bennett quit, left us high and dry, he did not complete the package requirements. In his arrogance, he decided not to complete the package requirements.

Weir apologizes to the attorney's present, he comments that this is a sham. It is a disservice to the applicants and a disservice to the Town. He thought lying in open session last month was bad enough, and now to drop this. He doesn't understand what their definition of public service is. Weir has grave questions about John Bennett's ability to serve this Town, given the circumstances on how he left and the last meeting he was at. He is stunned. He comments that this is crazy, but typical.

Leake reads aloud: John has dedicated and served our Town for nine years, during which time legal aspects of the Town's structure and ordinances has shown market improvement. His resignation, in my opinion, only came as a result and actions of one council member, outside, at the last meeting that the Town Attorney attended. His experiences brought having served Culpeper County Attorney's office and having worked for that County and other governments for 30 years. He has handled hundreds of rezoning cases and has extensive experience in aspects of land use matters, which will become greater importance again as the economy improves. His rates have always been consistent and reasonable and his work sufficient and he does not make things more complicated than they need to be. As a sole practitioner, he has always referred us to the best attorney in the field, rather than one of his partners, when specialized matters are encountered, his rates do not have the high overhead and duplication from more than one attorney working when a matter present. There is no learning curve with John; he's been significant to the Town and has institutional knowledge. He has also established a relationship with the current and most of the new council member and is more than willing to work with the new council.

Kenworthy comments that the RFQ was a waste of time and bringing these good people out here. He thinks this is an embarrassment to us. He respects John Bennett and he likes him as a friend, but he thinks it's time to move on. He did quit; he asked us why we did this to begin with. Tobias says we should follow up on the RFQ. Kenworthy also feels this decision should have been made by the next Council. Tobias feels this is quite comical, at the end of the day there is significant reason to believe that certain council members fear their ability to lead and or be prepared for meetings without the support of an attorney who will bend to their every beck and call, which is really the motivation behind this. We owe it to the residents to find another attorney. Tobias comments on the "poison Pill" of severance, there are not six months of billings. Tobias knows that the reason this is being done is so that David Leake has a "yes man" on his team.

Weir comments on the nicely prepared statement read by Councilman Leake. Weir would suggest that yes, the ordinances are much better in this town than 8 years ago, but you can thank himself and Marchant, they drafted most of them. With regard to the poison pill of severance on whether or not this council can bind the next council, he'll leave that to the next legal counsel. Weir asks if its average billing to the Town for six months, or average billing of his practice for six month, another poorly written motion. Weir reminds that this motion has not been seconded; **Leake amends his motion to read, "The billings to the Town". Cole seconds;**

Vote to bring the motion to a vote:

**Tobias-No, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-No, Weir-No
Mayor breaks tie with a Yes, Motion Carries**

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Vote on the Motion

Tobias-No, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-No, Weir-No

Mayor breaks tie with a Yes, Motion Carries

Town Hall Flooding

We are working with the insurance company and will keep council informed on their findings.

I-66 Projects – Holly Montague

There will be a meeting this Thursday @ Town Hall regarding the Interchange. This meeting is for the benefit of the affected property owners.

Closed Session

Tobias motions to enter into closed session pursuant to VA §2.2-3711 A(3) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. and A(5) Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community, Leake seconds

Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Stutz-Yes

Weir motions to enter into closed session pursuant to 2.2-3711A (1) Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals, namely the Town Manager, Tobias seconds;

Tobias-Yes, Leake-No, Cole-No, Scarbrough-No, Kenworthy-Yes, Weir-Yes

Mayor breaks tie with No

Motion Fails

Weir motions to enter into closed session pursuant to 2.2-3711A (7) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, Tobias seconds;

Tobias-Yes, Leake-No, Cole-No, Scarbrough-No, Kenworthy-Yes, Weir-No, Stutz-No

Motion Fails

Certification of Closed Session

At 9:58 p.m. Tobias motions that the Council of the Town of Haymarket does hereby certify that to the best of each member's knowledge, only public business matters lawfully exempt from the open meeting requirements by Virginia law were discussed in the closed session, to which this certification applies, and only such public business

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matters as were identified in the motion convening the closed session were heard, discussed or considered by Council, Scarbrough seconds;

Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Stutz-Yes

Weir motions to terminate the contract of the at will town manager effective immediately, for cause, Tobias seconds;

**Tobias-Yes, Leake-No, Cole-No, Scarbrough-No, Kenworthy-Yes, Weir-Yes,
Mayor breaks tie with No**

Tobias: Will withhold his comments to the June 18 meeting

Leake: Nothing

Cole: Nothing

Mayor: Thanks the ARB & Council for the banners

Scarbrough: Nothing

Kenworthy: He reminds that council hasn't done anything right lately

Weir: Direct clerk to advertise the vacancies on the boards. He agrees with Susan Edwards, embarrassing is the only word that comes to mind. You've condoned bad behavior. Take some civic classes

Adjournment

Weir moves to adjourn the regularly scheduled meeting of the Haymarket Town Council, Kenworthy seconds;

Ayes: 6 Nays: 0

Submitted:

Approved:

Jennifer Preli, Town Clerk

David Leake, Mayor