



# TOWN OF HAYMARKET TOWN COUNCIL

## REGULAR MEETING ~ MINUTES ~

David Leake, Mayor  
<http://www.townofhaymarket.org/>

15000 Washington St  
Haymarket, VA 20169

Monday, February 4, 2013

7:00 PM

Council Chambers

A Regular Meeting of the Mayor & Council of the Town of Haymarket, VA, was held this evening in the Board Room, Commencing at 7:00 PM

Mayor David Leake called the meeting to order.

### 1. Call to Order

Councilman Steve Aitken: Present, Councilwoman Rebecca Bare: Present, Councilwoman Katherine Harnest: Present, Councilwoman Mary-Lou Scarbrough: Present, Councilman Milt Kenworthy: Present, Vice Mayor Jay Tobias: Present, Mayor David Leake: Present.

### 2. Pledge of Allegiance

### 3. Public Hearing

Planning Commission Public Hearing

**Request for Exception/Waiver**  
**Zoning Code Section 58-185. Underground Utilities**  
**Applicant: Town of Haymarket for 15020 Washington Street**

Chairman Weir calls the Planning Commission public hearing and special meeting to order at 7:05 PM. Mr. Weir asks if there is anyone wishing to speak for or against the application, please do so.

Ring motions that due to public necessity, convenience, general welfare or good zoning practice, that the Planning Commission of the Town of Haymarket recommend to the Town Council approval of the request for Waiver/Exception to the Town Zoning Ordinance Section 58-185 and recommend allowing the Town to install an above ground electrical connection to 15020 Washington Street, Old Post Office Building, Johnson seconds; Discussion: Weir notes this application has somewhat changed since it was originally submitted to the Planning Commission, but not substantial enough to warrant an additional public hearing.

Vote: Weir-Abstain; Ring-Yes; Johnson-Yes; Bare-Yes

Ring motions to adjourn the special meeting of the Planning Commission, Johnson seconds;

Ayes: 4      Nays: 0      Absent: Robinson

A. Request for Waiver/Exception to 58-185 Underground Utilities for 15020 Washington Street

**Request for Exception/Waiver**  
**Zoning Code Section 58-185. Underground Utilities**  
**Applicant: Town of Haymarket for 15020 Washington Street**

Mayor opens public hearing and invites the public to speak for or against the application

Motion to close the public hearing

<b>RESULT:</b>	<b>CLOSED [UNANIMOUS]</b>
<b>MOVER:</b>	Steve Aitken, Councilman
<b>SECONDER:</b>	Katherine Harnest, Councilwoman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

#### 4. Minutes Acceptance

##### A. Mayor & Council - Regular Meeting - Dec 3, 2012 7:00 PM

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Katherine Harnest, Councilwoman
<b>SECONDER:</b>	Mary-Lou Scarbrough, Councilwoman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

##### B. Mayor & Council - Work-Session - Jan 2, 2013 3:00 PM

<b>RESULT:</b>	<b>ACCEPTED [4 TO 0]</b>
<b>MOVER:</b>	Jay Tobias, Vice Mayor
<b>SECONDER:</b>	Rebecca Bare, Councilwoman
<b>AYES:</b>	Steve Aitken, Mary-Lou Scarbrough, Milt Kenworthy, Jay Tobias
<b>ABSTAIN:</b>	Rebecca Bare, Katherine Harnest

##### C. Mayor & Council - Work-Session - Jan 29, 2013 3:00 PM

<b>RESULT:</b>	<b>ACCEPTED [5 TO 0]</b>
<b>MOVER:</b>	Jay Tobias, Vice Mayor
<b>SECONDER:</b>	Rebecca Bare, Councilwoman
<b>AYES:</b>	Aitken, Bare, Scarbrough, Kenworthy, Tobias
<b>ABSTAIN:</b>	Katherine Harnest

#### 5. Citizens' Time

No public Comment

#### 6. Updates

##### A. Master Plan Update - Master Plan Committee

The Town contracted with J2E last spring to assist the Town in establishing a master plan. A committee has been formed that includes, Councilwoman Bare, Marchant Schneider, and Holly Montague. The committee will bring a final recommendation in the next month or two, after input has been received from the ARB and Planning Commission.

#### 7. Agenda Items

##### A. Zoning Waiver/Exception Request

Bare motions due to public necessity, convenience, general welfare or good zoning practice, I move that the Town Council of the Town of Haymarket approve the request for Waiver/Exception to the Town Zoning Ordinance Section 58-185 and allow the Town to install an above ground electrical connection to 15020 Washington Street, Old Post Office Building.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rebecca Bare, Councilwoman
<b>SECONDER:</b>	Jay Tobias, Vice Mayor
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

##### B. FEMA - 4092-DR-VA Appointment of Agent Hurricane Sandy Jennifer Preli - Town Clerk

WHEREAS, on November 19, 2012 Governor Robert F. McDonnell requested Federal Disaster Assistance in the wake of Hurricane Sandy; and

WHEREAS, on November 26, 2012 President Barack Obama approved Governor Robert F. McDonnell's request for Federal Disaster Assistance to aid State and Local Governments with recovery costs from Hurricane Sandy; and

WHEREAS, Prince William County was among 26 Counties and 3 Independent Cities included in that declaration for Virginia; and

WHEREAS, the Town Council of the Town of Haymarket does hereby find that due to the impact of Hurricane Sandy, The Town faced damages which necessitated the Town Clerk, Jennifer Preli, to file a Request for Public Assistance through the Virginia Department of Emergency Management for a grant #FEMA-4092-DR-VA

WHEREAS, in order to apply for assistance from FEMA, FEMA requires the Haymarket Town Council to designate an Agent to make application for such assistance;

NOW, THEREFORE, BE IT RESOLVED by the Haymarket Town Council this 4<sup>th</sup> day of February 2013, that Jennifer Preli, Town Clerk, is hereby designated as the Town of Haymarket's agent for the purposes of seeking public assistance, including but not limited to any assistance which may be available from or through FEMA; and

BE IT FURTHER RESOLVED by the Haymarket Town Council that Jennifer Preli, Town Clerk, is hereby directed to seek whatever assistance may be available from Federal and State sources for costs associated with this declaration.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Katherine Harnest, Councilwoman
<b>SECONDER:</b>	Mary-Lou Scarbrough, Councilwoman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

**C. Haymarket Baptist Church - Rezoning Application Marchant Schneider - Town Planner  
RESOLUTION 20130204 - 2**

**RESOLUTION TO INITIATE AMENDMENTS TO THE ZONING MAP OF THE TOWN OF  
HAYMARKET, VIRGINIA**

WHEREAS certain zoning map amendments have been submitted by the Trustees of Haymarket Baptist Church for consideration by the Town Council pursuant to the provisions § 15.2-2286(A)(7) of the Code of Virginia and § 58-422 of the Code of the Town of Haymarket, Virginia;

WHEREAS, the Town Council may consider such petitions in furtherance of the purposes of zoning as set out in § 15.2-2283 of the Code of Virginia and to further implement the Town's Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED that the Town Council states its intention to consider amending the Zoning Map of the Town of Haymarket, Virginia, to rezone 0.69 acres identified as GPIN 7397-09-2472, from the Town Center District B-1 to the Residential District R-1;

AND BE IT FURTHER RESOLVED that the Town Council, pursuant to § 58-425 of the Haymarket Town Code, hereby refers these matters to the Planning Commission to consider whether these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; to consider whether these amendments are consistent with the Town's Comprehensive Plan; to consider the impact of these amendments on the services, character, and needs of the community; to prepare draft amendments for consideration; and for the Planning Commission's recommendation in regard to these matters referred.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Jay Tobias, Vice Mayor  
**SECONDER:** Rebecca Bare, Councilwoman  
**AYES:** Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

**D. Lot Grading Plan 14830 Jordan Lane**

Harnest motions that the Town Council approve Zoning Permit #20120815 for a Single Family Home use to be constructed at 14830 Jordan Lane, in accordance with Section 58-52(1) and subject to a grading plan entitled "Parcel 1A1 Piedmont Mews", prepared by LDC, dated September 2012, and sealed December 17, 2012 and January 3, 2013, respectively.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Katherine Harnest, Councilwoman  
**SECONDER:** Rebecca Bare, Councilwoman  
**AYES:** Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

**E. Zoning Permit Applications**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Rebecca Bare, Councilwoman  
**SECONDER:** Katherine Harnest, Councilwoman  
**AYES:** Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

**F. Fire Prevention Code Chapter 19 Lisa M. Baird, Town Attorney**  
**ORDINANCE #ORD-20130204**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, TOWN OF HAYMARKET, VIRGINIA (2004), AS AMENDED, BY ADDING CHAPTER 19-FIRE PREVENTION & PROTECTION CODE.

BE IT ORDAINED by the Council for the Town of Haymarket, Virginia, meeting in regular session this 4<sup>th</sup> Day of February 2013:

That this Chapter 9 of the Code of Ordinances, Town of Haymarket (2004), as amended, is added as follows:

**CHAPTER 19 FIRE PREVENTION AND PROTECTION**

**ARTICLE I. - FIRE MARSHAL**

**Sec.19.1-1 - Office created; deputies; appointments.** The Town Council shall appoint the chief fire marshal (the fire marshal). The deputy fire marshal(s) and assistant fire marshals shall be appointed by the chief fire marshal, whose powers and duties shall be as set forth in this chapter and as authorized by the Code of Virginia.

**Sec. 19.1-1.1. - Oaths of office.**

The fire marshal, deputy fire marshal, assistant fire marshals, and members of the fire marshal's staff, before entering upon their duties, shall, respectively, take an oath, before any officer authorized to administer oaths, faithfully to discharge the duties of their offices.

**Sec. 19.1-1.2. - General powers and duties.**

The fire marshal and deputies or assistants shall have such powers and duties as are prescribed by state law and by this chapter and other ordinances of the county.

**Sec. 19.1-2. - Fire marshal to be summoned to scene of fire, explosion, etc.**

The fire department officer-in-charge of any fire, explosion or incident to which fire apparatus or equipment responds shall immediately summons the fire marshal to the scene to investigate the circumstances involved. Such fire marshal shall make an investigation, or cause to be

investigated, the origin and cause of every fire and explosion occurring within the county.

**Sec. 19.1-3. - Reserved.**

**Sec. 19.1-4. - Right of entry to investigate releases of hazardous material, hazardous waste, or regulated substances.**

The fire marshal shall have the right to enter upon any property from which a release of any hazardous material, hazardous waste, or regulated substance, as defined in Code of Virginia, § 10.1-1400 or § 62.1-44.34:8, has occurred or is reasonably suspected to have occurred and which has entered into the ground water, surface water or soils of the county, city or town in order to investigate the extent and cause of any such release. If, in undertaking such an investigation, the fire marshal makes an affidavit under oath that the origin or cause of any such release is undetermined and that he has been refused admittance to the property, or is unable to gain permission to enter the property, any magistrate of the city or county where the property is located may issue an investigation warrant to the fire marshal authorizing him to enter such property for the purpose of determining the origin and source of the release. If the fire marshal, after gaining access to any property pursuant to such investigation warrant, has probable cause to believe that the release was caused by any act constituting a criminal offense, he shall discontinue the investigation until a search warrant has been obtained or consent to conduct the search has otherwise been given.

**Sec. 19.1-5. - Power to arrest, to procure and serve warrants and to issue summons.**

The fire marshal and his assistants appointed pursuant to Code of Virginia, § 27-36 [http://library.municode.com/HTML/14114/level2/CH27TA\\_ARTIITABORE.html](http://library.municode.com/HTML/14114/level2/CH27TA_ARTIITABORE.html) shall have the authority to arrest, to procure and serve warrants of arrest and to issue summons in the manner authorized by general law for violation of fire prevention and fire safety laws and related ordinances.

**Sec. 19.1-5.1. - Police powers of fire marshals.**

In addition to such other duties as may be prescribed by law, the fire marshal and his assistants appointed pursuant to Code of Virginia, § 27-36 [http://library.municode.com/HTML/14114/level2/CH27TA\\_ARTIITABORE.html](http://library.municode.com/HTML/14114/level2/CH27TA_ARTIITABORE.html) shall have the same police powers as a sheriff, police officer or law enforcement officer. The investigation and prosecution of all offenses involving hazardous materials, fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses, possession and manufacture of explosive devices, substances and fire bombs shall be the responsibility of the fire marshal or his designee.

**ARTICLE II. - FIRE PREVENTION CODE**

**Sec. 19.1-6. - Adopted; enforcement; availability for reference.**

- (a) There is hereby adopted by the Town Council, for the purpose of prescribing regulations to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, wherever located, that certain code known as the Virginia Statewide Fire Prevention Code ("Fire Prevention Code"), as amended, save and except such portions as are deleted, modified or amended by this article, and the same is hereby adopted and incorporated as fully as if set out at length herein.
- (b) The fire marshal shall have responsibility for enforcement of the Fire Prevention Code. The term "fire official," as used in the fire prevention code, shall mean the fire marshal or his designee.
- (c) At least one copy of the fire prevention code adopted in subsection (a), above shall be on file in the office of the fire marshal, and it shall be available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday inclusive, except for legal holidays.

**Sec. 19.1-7. - Amendment to the Virginia Statewide Fire Prevention Code-Generally.**

Pursuant to the authority found in Code of Virginia, Tit. 27, Ch. 9, the "Virginia Statewide Fire

Prevention Code" (Fire Prevention Code), the board of county supervisors hereby adopts the following changes to the fire prevention code.

**Sec. 19.1-8. - Violations of the Statewide Fire Prevention Code.**

- (a) If any notice of violation issued pursuant to Section 111 of the Fire Prevention Code is not complied with within the time specified in the notice citing the alleged violation, the fire marshal shall request the county attorney to institute the appropriate legal proceedings to restrain, correct, or abate such alleged violation.
- (b) Where two or more follow-up inspections are required because a responsible party, person, firm, or corporation has failed to comply with a previously issued order or notice of violation, a fee shall be charged as permitted in section 107.15 of the Fire Prevention Code. Fees shall be in accordance with the fee schedule set out in section 107.15 of the Fire Prevention Code.

**Sec. 19.1-9. - Notification of fire.**

In any building subject to inspection under any provision of the fire prevention code, when a fire or evidence of there having been a fire is discovered, even though it has apparently been extinguished, it shall be immediately reported to the Prince William County Public Communications Center. This shall be the duty of the owner, manager, or person in control of such building at the time of discovery. This requirement shall not be construed to forbid the owner, manager, or person in control of said building from using all diligence necessary to extinguish such fire prior to the arrival of the fire department.

**Sec. 19.1-10. - Responsibility for filing incident report.**

It shall be the responsibility of the fire department officer-in-charge, or his designee, to file with the chief fire marshal, in such form as he or she shall prescribe, a report of every fire, explosion, or incident to which apparatus or equipment responds. Such reports shall be filed at such time and location prescribed by the chief fire marshal.

**Sec. 19.1-11. - Obstruction of fire apparatus roads.**

Fire apparatus access roads and approved designated fire lanes shall not be obstructed in any manner including the parking of vehicles, staging or storage of devices, equipment or materials or any unauthorized use in accordance with sections 503.4.1 through 503.4.2 of the International Fire Code (2009). The minimum widths and clearances established in section 503.2.1 shall be maintained at all times.

**Sec. 19.1-12. - Interior finish, decorative materials, and furnishings.**

This section shall be applicable to all Assembly, Educational and Institutional occupancies. Combustible materials such as paper, cotton batting, straw, cut or dry vines, leaves, trees, artificial flowers or shrubbery, or similar combustible materials, and foam plastic materials shall not be used for decorative purposes in non-sprinklered show windows, building lobbies, exits or exit accesses, interior stairways, or other parts of buildings, or any area of public use in such a quantity as to constitute a fire hazard.

**Sec. 19.1-13. - Fire protection systems; standards.**

All fire protection systems that were installed in compliance with any law, ordinance or order, shall be maintained in an operative condition at all times. An owner or occupant shall not reduce the effectiveness of the protection so required to include to silence, reset, remove, tamper with, damage, destroy, or use without just cause any fire detection or alarm system, fire protection system except for the purpose of extinguishing fire, training, recharging, repairing or when approved by the fire official. Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 901.6.1 of the International Fire Code (2009 Edition).

**Sec. 19.1-14. - Fire protection systems; systems out of service.**

Where a required fire protection system is out of service, the Public Safety Communications Center and the fire marshal shall be notified immediately and, where required by the fire marshal, the building shall be evacuated and/or an approved and documented fire watch shall be provided for all occupants and premises left unprotected by the inoperative system until the

fire protection system has been returned to service and the fire watch has been terminated by the fire marshal.

Where utilized, fire watches shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the premises and keep watch for fire.

**Sec. 19.1-15. - Fire alarms; faulty and nuisance alarms.**

- (a) Notwithstanding the provisions found in sections 2.5-1 et seq., of chapter 2.5 <http://library.municode.com/HTML/14114/level1/CH2.5ALSY.html> of this Code, whenever faulty or nuisance alarms in an occupancy exceed three in any one-month period, the fire official may require the owner or occupant to conduct a witnessed test the fire protection system causing the faulty or nuisance alarm.
- (b) For the purpose of this section, a faulty or nuisance alarm is deemed to occur whenever the fire officer in charge responding to a fire alarm call shall determine, after investigation, that faulty equipment initiated the alarm. An alarm caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance, or an alarm activated by a cause that cannot be determined may be deemed a faulty alarm.
- (c) As soon as practical following the faulty or nuisance alarm, the responding officer in charge shall cause the fire marshal's office to be notified in writing of the facts and circumstances supporting his determination that faulty equipment initiated the alarm.
- (d) Whenever an owner or occupant is required by this section to conduct a test of a fire alarm or suppression system, the fire official shall notify the owner or occupant in writing and prescribe a certified test consistent with standard procedures to be witnessed by the fire official or his designee.
- (e) Any faulty equipment or systems identified during the test which will reduce the effectiveness of the protection shall be recorded and a notice of violation prepared and served in accordance with the provisions of section 111.0 of Virginia Statewide Fire Prevention Code (2009). The notice of violation will require the repair, abatement or correction of any noted defects, the restoration of the system to normal operative condition and compliance with any law, ordinance or order affecting such alarm system.

The notice of violation shall be enforced pursuant to the provisions of section 110 of the International Fire Code (2009).

**Sec. 19.1-16. - Fire department connections; signs.**

A metal sign with raised letters at least one-inch in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable.

Where multiple fire department connections are provided, a metal sign with raised letters at least one-inch in size shall be provided at all fire department connections to indicate the numerical street address, range of numerical street addresses, or fire protection zones served by a fire protection system connected to fire department connection. This sign is to be placed in a location as to be readily visible, free of obstruction, and approved by the fire marshal.

**Sec. 19.1-17. - Means of egress from buildings and/or occupancies; maintenance and inspection.**

The owner, operator, manager or other person responsible for the operation of an assembly, educational or mercantile occupancy, or other occupancy or building open to the general public shall inspect and check egress facilities before such occupancy or building is occupied to determine compliance with this section. If such inspection reveals that any element of the means of egress cannot be accessed, is obstructed, locked, fastened or otherwise unsuited for immediate utilization, admittance to the occupancy or building shall not be permitted until necessary corrective action has been completed and the means of egress restored to a safe and compliant condition.

**Sec. 19.1-18. - Hazardous materials; unauthorized discharges.**

The storage, use and handling of all hazardous materials shall be in accordance with section 2703 of the International Fire Code (2009 Edition).

When hazardous materials or hazardous waste are released in any quantity, the code official shall be notified and the procedures required in accordance with sections 2703.3.1.1 through 2703.3.1.4 of the Fire Prevention Code (2009 Edition) shall be followed.

### ARTICLE III. - EXPLOSIVES, FIREWORKS AND MODEL ROCKETRY

#### Sec. 19.1-19. - General.

In addition to the provisions set out in sections 3301, et seq., chapter 33 <http://library.municode.com/HTML/14114/level1/CH33EXLADEPLRE.html> of the International Fire Code (2009 Edition), NFPA 495 shall govern the possession, manufacture, transportation, storage, sale, handling and use of explosive materials. The Fire Marshal shall enforce the regulations contained herein pertaining to the intra-county transportation of explosives.

#### Sec. 19.1-20. - Definitions.

In addition to the definitions identified in section 3302.1 of the International Fire Code (2009 Edition) and the Fire Prevention Code (2009 Edition), which are incorporated herein by reference, the following are hereby adopted:

*Approved.* As approved by the Fire Marshal's Office.

*Permissible fireworks.* Only those Division 1.4(g) fireworks which have been approved by the Fire Marshal and comply with the most recent and approved standards of the American Fireworks Standard Laboratory.

*Retailer.* A person, firm, or corporation offering for sale or selling permissible fireworks to the general public.

*Wholesaler.* A person, firm, or corporation offering for sale or selling permissible fireworks to a retailer.

#### Sec. 19.1-21. - Approval of permissible fireworks.

Any person, firm, or corporation engaged in the business of selling or offering to sell fireworks within the county shall submit a list of such fireworks to the county fire marshal for approval no later than a minimum of 120 days prior to the proposed sale date. When deemed necessary, as shown in Table 9.1-78, the county fire marshal may require a person, firm or corporation selling or offering to sell fireworks to submit, at least five samples of each fireworks intended to be sold within the county, together with complete specifications including the manufacturer and trade name of such fireworks and a chemical analysis of each such fireworks so submitted. Said samples, specifications, and chemical analysis shall be submitted to the fire marshal's office no later than 120 days prior to the proposed sale date in the county. No wholesaler shall deliver, nor any wholesaler or retailer sell any fireworks in the county other than those so approved.

Table 9.1-78  
American Fireworks Standard Laboratories

AFSL Standard	Submittal Requirements		Prohibited for Consumer Use
	Manufacturer, trade name only	Manufacturer, trade name, may require samples, and chemical composition	
101 Combination items		X	



102 Comets, mines, and shells			X
103 Firecrackers			X
104 Fountains	X		
105 Ground spinners and chasers	X		
106 Specialty items		X	
107 Party, trick, or toy smoke devices			X
108 Reloadable tube aerial shells			X
109 Roman candles			X
110 Sky rockets, missiles, and helicopters			X
111 Handheld sparkling devices	X		
112 Wheel	X		

**Sec. 19.1-22. - Retail display and sale of fireworks.**

In addition to the restrictions set forth in section 3301.2.2 of the Statewide Fire Prevention Code, retail sales of permissible fireworks shall be done only from an approved fixed location. Such locations shall comply with all county rules and regulations applicable to such sites. The sale or storage of any fireworks shall be prohibited on the property of another without the express written permission of the owner. The sale of fireworks within commercial or residential occupancies is prohibited. Operational permits for the sales of fireworks shall be valid for the period June 1 to July 15 of each year, and shall be issued only after a bond, or evidence of liability insurance has been filed with the fire marshal's office.

**Sec. 19.1-23. - Records to be kept by wholesaler and retailer.**

Each wholesaler shall maintain full and complete records of all purchases and sales of fireworks and each retailer shall maintain full and complete records of all purchases of fireworks from wholesalers. The county fire marshal or his designated agent is authorized to examine the records of any wholesaler or retailer as they relate to the purchases and sales of fireworks within the county.

**Sec. 19.1-24. - Unlawful fireworks.**

It shall be unlawful for any person, firm, or corporation to transport, manufacture, store, handle, possess, sell, offer for sale, expose for sale or to buy, use, ignite or explode any fireworks, with the following exceptions:

- (1) Storage and handling of fireworks as permitted in Section 3304, International Fire Code (2009 Edition).
- (2) Manufacture, assembly and testing of fireworks as permitted in section 3305, International Fire Code (2009 Edition).
- (3) The use of fireworks for display as permitted in Section 3308, International Fire Code (2009 Edition).
- (4) The possession, storage, sale, handling and use of permissible fireworks where allowed by applicable local and state laws, ordinances and regulations provided such fireworks comply with CPSC 16 CFR, Parts 1500 and 1507, and DOT 49 CFR, Parts 100-178, for consumer fireworks, as permitted in section 3309 of this Code (2009 Edition).

**Sec. 19.1-25. - Seizure of prohibited fireworks.**

The fire official is authorized to remove or cause to be removed or disposed of in an approved manner, at the expense of the owner, explosives, explosive materials, or fireworks offered or exposed for sale, stored, possessed or used in violation of this chapter. Any county law enforcement officer or fire marshal arresting any person for a violation of this chapter shall seize the materials in question in the possession or under the control of any person so arrested and shall hold the same until final disposition of any criminal proceedings against such person. Where no criminal proceedings can be instituted due to lack of knowledge as to who owns or is responsible for fireworks, the fireworks in question shall be destroyed after 30 days.

**Sec. 19.1-26. - Sales to minors.**

The sale to or possession of permissible fireworks by persons under the age of 18 shall be prohibited unless the person is accompanied by a parent or legal guardian.

**Sec. 19.1-27. - Manufacture, assembly and testing of fireworks, explosive materials and fireworks, generally.**

The manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall be prohibited in the Town of Haymarket, with the following exceptions:

- (1) The hand loading of small arms ammunition prepared for personal use and not offered for resale.
- (2) The mixing and loading of blasting agents or the assembly of two component explosives for use at approved blasting sites in accordance with NFPA 495. An operational permit shall be obtained as required in section 107.2 of the Fire Prevention Code (2009 Edition) for any blasting operation within the Town of Haymarket.
- (3) The use of binary explosives or phosphoric materials in blasting or pyrotechnic special effect applications in accordance with NFPA 495 or NFPA 1126. An operational permit shall be obtained as required in section 107.2 of the Fire Prevention Code (2009 Edition) for any blasting operation and for the use of pyrotechnic special effect materials within the Town of Haymarket.
- (4) Storage, use and handling of explosives or explosive materials in an approved laboratory setting permitted in accordance with section 107.2 of the Fire Prevention Code (2009 Edition).

**Sec. 19.1-28. - Rocketry.**

The storage, handling, and use of model and high-power rockets shall comply with the requirements of NFPA 1122, NFPA 1125 and NFPA 1127. Any type of rocketry other than that described in the definition of model rocketry as set forth in NFPA 1122 shall be prohibited.

**Sec. 19.1-29. - Wholesale and retail stores.**

The storage of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines, shall comply with the provisions of section 3304 of the International Fire Code (2009 Edition).

The storage or display of explosives and blasting caps in wholesale and retail stores shall be prohibited.

**Sec. 19.1-30. - Magazine required.**

Explosives and explosive materials, and Division 1.3G fireworks shall be stored in magazines constructed, located, operated and maintained in accordance with the provisions of section 3304 of the International Fire Code (2009 Edition) and NFPA 495 or NFPA 1124. The storage of explosives, explosive material, blasting agents and Division 1.3G fireworks shall be prohibited within the legal geographic boundaries of any district where such storage is prohibited by the fire marshal with the following exceptions:

- (1) Storage of fireworks at display sites in accordance with section 3308.5 of the International Fire Code (2009) and NFPA 1123 or NFPA 1126.
- (2) Portable or mobile magazines not exceeding 120 square feet in area shall not be required to comply with the requirements of the International Building Code.

**Sec. 19.1-31. - Financial responsibility; certificate of insurance required.**

Before a permit is issued, as required by section 3301.2 of the Fire Prevention Code (2009 Edition), for the storage, transportation, disposal, or use of explosives or blasting agents, wholesale or retail sale of permissible fireworks, or any fireworks display, the applicant shall file with the fire marshal's office a certificate of insurance which shows that the applicant has liability insurance in the amount of at least \$5,000,000.00 combined single limit for bodily injury and property damage. This insurance policy shall become available for the payment of any damage arising from the acts or omissions of the applicant, his agents, or his employees in connection with the storage, transportation, disposal, or use of explosives or blasting agents, retail sales of fireworks, or fireworks display. The applicant shall ensure that the insurance policy is in effect at the time of the commencement of the activities authorized by the permit, and remains continuously in effect until such activities are completed.

**Sec. 19.1-32. - Emergency contact for certified blasters.**

In addition to the provisions set out in sections 3301.4, et seq., of the Fire Prevention Code, persons using explosive materials, within the confines of the county, shall provide emergency contact information to the fire official and update such by the first day of January, April, July, and October. Such information shall include the employer's name, office address, office

telephone number, 24-hour emergency contact telephone number, blaster's name, and a 24-hour emergency contact telephone number.

**Sec. 19.1-33. - Loss, theft, or unauthorized removal of explosive materials.**

The loss, theft, or unauthorized removal of explosive materials from a magazine or permitted facility or site shall be reported to the fire official, local law enforcement authorities, and the U.S. Department of Treasury, Bureau of Alcohol, Tobacco Firearms and Explosives (BATF) immediately. Immediate notification to the fire official shall be by telephone or in person followed by a letter giving complete details as to the types, amounts and manufacturer of the explosive materials and other relevant details relating to the loss, theft or unauthorized removal. The letter shall be delivered to the fire official within 24 hours of the verbal notification.

Notwithstanding the foregoing, the loss of Division 1.4G (consumer fireworks) need not be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF).

**Sec. 19.1-34. - Improper or unlawful storage of explosive materials.**

In addition to the provisions in sections 3303.1, et seq., of the International Fire Code (2009 Edition), if at any time explosives or explosive materials are found stored in an improper or unlawful manner, immediate notification shall be made to the fire official who shall take all necessary actions to safeguard or dispose of such explosives or explosive materials.

**ARTICLE IV. - CRIMINAL OFFENSES**

**Sec. 19.1-35. - Impersonation.**

It shall be unlawful and a Class 1 misdemeanor for any unauthorized person to use a badge, uniform or any other credentials, so as to gain access to any building, marine vessel, vehicle or premises, or to otherwise falsely identify himself as the fire marshal or his designated representative.

**Sec. 19.1-36. - Damage or injury to fire department equipment or personnel.**

It shall be unlawful and a Class 1 misdemeanor for any person to damage or deface, or attempt or conspire to damage or deface any fire or rescue vehicle belonging to the DFR or a volunteer company at any time, or to injure, or attempt to injure or conspire to injure fire and rescue personnel while such personnel are in the performance of their duties.

**Sec. 19.1-37. - Unlawful boarding or tampering with fire and rescue vehicles.**

It shall be unlawful and a Class 1 misdemeanor for any person, without proper authorization from the fire or rescue officer in charge of said vehicle, to cling to, attach himself to, climb upon or into, board or swing upon any fire or rescue vehicle, whether such vehicle is in motion or at rest, or to sound any warning device thereon, or to manipulate, tamper with or destroy or attempt to manipulate, tamper with or destroy any lever, valve, switch, starting device, brake, pump or any equipment, protective clothing or tool, on or a part of such vehicle.

**Sec. 19.1-38. - Unlawful use of fire or rescue apparatus, equipment, etc., within Town.**

(a) It shall be unlawful and a Class 2 misdemeanor for any person to operate or cause to be operated upon a public highway or street in the county any vehicle or equipment used, intended to be used, or designated to be used for the purpose of fighting fires or responding to emergency incidents, unless the use of such vehicle or equipment is authorized by the county.

(b) This section shall not apply to the operation of firefighting vehicles or rescue equipment owned by any fire or rescue company outside of the county when such vehicle or equipment is traveling in or through the county for parade or other non-firefighting purposes or in response to a call from the county's public safety communications center.

**Sec. 19.1-39. - Allowing fire to spread to land of another.**

Any person who intentionally sets or procures another to set fire to any woods, brush, leaves, grass, straw or any other inflammable substance capable of spreading fire, and who intentionally allows the fire to escape to lands not his own, whereby the property of another is damaged or jeopardized, shall be guilty of a Class 1 misdemeanor and shall be liable for the full

amount of all expenses incurred in fighting the fire.

**Sec. 19.1-40. - Carelessly damaging property by fire.**

If any person shall carelessly, negligently or intentionally set any woods or marshes on fire, or set fire to any stubble, brush, straw or any other substance capable of spreading fire on lands, whereby the property of another is damaged or jeopardized, he shall be guilty of a Class 4 misdemeanor and shall be liable for the full amount of all expenses incurred in fighting the fire.

**Sec. 19.1-41. - Refusal to obey orders of a fire or rescue officer.**

(a) Any person or persons refusing to obey the orders of the officer in charge at an incident scene shall be guilty of a Class 4 misdemeanor.

(b) Any officer in charge at an incident scene shall have the power to make arrests for violation of the provisions of this section.

(c) Any person neglecting to obey any order of an officer in charge of an incident scene shall upon conviction of such offense, be fined not to exceed \$100.00.

**Sec. 19.1-42. - Prohibited parking within a designated fire lane; unauthorized use.**

Notwithstanding the provisions found in sections 13-324

[http://library.municode.com/HTML/14114/level2/CH13MOVETR\\_ARTXSTSTPAGE.html](http://library.municode.com/HTML/14114/level2/CH13MOVETR_ARTXSTSTPAGE.html) and 13-325

[http://library.municode.com/HTML/14114/level2/CH13MOVETR\\_ARTXSTSTPAGE.html](http://library.municode.com/HTML/14114/level2/CH13MOVETR_ARTXSTSTPAGE.html) of this Code, it shall be unlawful for any person to park a vehicle within a designated fire lane. In any prosecution under this section, proof that the vehicle described in the complaint, summons or warrant was parked in violation of this Code, together with proof that the defendant was at the time of such prohibited parking the registered owner of the vehicle, shall constitute a prima facie evidentiary presumption that such registered owner of the vehicle was the person who parked the vehicle at the place and at the time such violation occurred. In addition, the vehicle parked in violation of this section may be impounded by the county police department and held until the penalty provided and the towing and storage charges incurred are paid. This section shall be enforced by the county fire marshal's office and the county police department.

It shall be unlawful for any person, firm, or corporation to otherwise obstruct, stage or store devices, equipment, or materials, or use any designated fire lane without authorization from the fire official.

**Sec. 19.1-43. - Penalty for chapter violations.**

(a) Unless otherwise specified in this chapter, any person, firm or corporation who shall violate any of the sections of this chapter, or any provisions of the fire prevention code adopted in accordance with this chapter, shall separately for each and every such violation and noncompliance respectively, be guilty of a violation of this chapter, and shall, upon conviction, be punishable as a Class 1 misdemeanor.

(b) A violation of this chapter shall be construed to be an infringement, breach, or failure to comply with any provision of this chapter or any order made thereunder, or any act of building in violation of any detailed statement, specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or any failure to comply with such an order within the time fixed therein.

(c) Each day that a violation continues after a service of notice as provided for in this Code shall be deemed a separate offense.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jay Tobias, Vice Mayor
<b>SECONDER:</b>	Rebecca Bare, Councilwoman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

**G. Town Manager Position Duties & Responsibilities**

Add to continuation meeting agenda

**H. Town Center Property - Old Post Office**

Add to continuation meeting agenda

I. Council sets a continuation meeting for Tuesday, February 12, 2013 at 7:30 PM

**J. Parking - Town Center Property**

Policy directive for employees to park out back

**K. Employee Health Benefits - Retirees**

Tobias comments that he doesn't object to do something along these lines. He just doesn't want to bind the Town too much financially for future years.

Harnest like the Purcellville Plan, staggered as to length of service

Tobias will take this project on as part of the FY2014

Aitken is leaning more toward a fixed amount rather than a percentage. He feels the percentage could get the Town in a financial bind in the future.

**L. Certified Local Government**

Aitken believes we should shrink the historic district, we have a lot of housing developments that are 10-15 years old and to him that is not historic.

Harnest is not a big fan of shrinking the district; the CLG grants only go toward certified historic buildings and we only have one. The benefits don't seem to out weight the negative affects of shrinking the district. She is concerned about not having a say in the architectural design of Sheetz and McDonald's.

Scarbrough agrees with Councilwoman Harnest. The current district tends to protect us

Kenworthy agrees with Harnest and Aitken. He thinks it should be shrunk to 30% of its current boundaries

Tobias recently attended an ARB meeting and there seems to be mixed opinions from them on the CLG. There are some who feel that they want to continue to have purview over everything in Town and then some that think it should be restricted. He feels that some of the discussions at that last meeting were slowing up the development process. Also, we should eliminate some of the newer areas from the Historic District; there are too many buildings that have been overlooked that need the ARB's attention.

Tobias motions to direct the Planning Commission to explore the resizing of the Town's historic district in an effort to streamline the application process, zoning process, review process, sign ordinance process with current applications that may or may not meet the definition of historic either by date of construction or other variable to which they see fit and to have a report back to council by the March meeting

<b>RESULT:</b>	<b>ADOPTED [4 TO 2]</b>
<b>MOVER:</b>	Jay Tobias, Vice Mayor
<b>SECONDER:</b>	Steve Aitken, Councilman
<b>AYES:</b>	Steve Aitken, Rebecca Bare, Milt Kenworthy, Jay Tobias
<b>NAYS:</b>	Katherine Harnest, Mary-Lou Scarbrough

**8. Appropriations****A. Battlefield High School - Request of Proffer Funds**

Tobias motions to approve and appropriate \$20,244 to Battlefield High School Parent Teacher Organization for the purchase of hardware for an Apple I-PAD Learning Lab PTO and instruct the Clerk to obtain follow-up documentation so that the Town's records are complete on the distribution of the Proffer funds received from Alexandra's Keep.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jay Tobias, Vice Mayor
<b>SECONDER:</b>	Milt Kenworthy, Councilman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias

## 9. Department Reports

### A. Police Report - Deputy Chief Greg Breeden

Deputy Chief Greg Breeden Introduces Jake Davis and Jason Davis, the Town's two newest police officers.

Mayor Leake asks when Chief will be back, his best guess is mid-February

### B. Town Engineer's Report - Holly Montague, PE

Ms. Montague hands out an update to Council on the Enhancement Grant application. The Mayor asks when we will find out the grant awards. She will get with VDOT and send out an update email to Council.

Tobias asks about a time frame for the temporary fix of the pipe at the Corner of Jefferson & Washington Streets.

Tobias ask when work is expected to start on the Street Scape Project; she anticipates May 2014.

### C. Building Official's Report

### D. Museum Report

Council asks the Clerk to please to ask for a report and Ms. Jacinto's presence at the March meeting. Scarbrough asks if we could put her first on the agenda so she doesn't have to stay too long?

### E. Treasurer's Report

Tobias informs Council that now is the time to give him their wishes for the FY 2014 Budget. Harnest comments that we should include additional monies for the completion of the Old Post Office.

Scarbrough asks Tobias for an emailed copy of the current budget.

## 10. Citizens' Time II

No Public Comment

## 11. Closed Session

### A. Enter into Closed Session

Bare motions to enter into closed session pursuant to VA 2.2-3711 A(1) Town Manager position, potential candidates for consideration of the Town Manager position, potentially personnel issues in the clerks office, and;

VA 2.2-3711 A(3) Real property lease negotiations, White Oak school, Xcellent Technology Solutions, Street Scape Property, Daytime Playtime

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rebecca Bare, Councilwoman
<b>SECONDER:</b>	Katherine Harnest, Councilwoman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias, Leake

### B. Certification of the Closed Session

Bare motions to certify that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rebecca Bare, Councilwoman
<b>SECONDER:</b>	Katherine Harnest, Councilwoman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias, Leake

## 12. Councilmember Time

A. Steve Aitken

Since we are getting bullet proof vests from an entity, now we can make a decision on the police chief's car. There has been some discussion about donating it, he recommends we move forward with that donation.

Tobias comments that based on his conversation with Aitken earlier about the Public Safety budget, they may want to reconsider donating the vehicle.

B. Rebecca Bare

C. Katherine Harnest

D. Mary Lou Scarbrough

E. Milt Kenworthy

F. James Tobias

Take some time and please send budget comments via email

G. David Leake

QBE has entered into a new contract with the County School Board, just this week. Tobias asks if the County re-advertised that sale? Leake is unaware if its been re-advertised.

## 13. Adjournment

Tobias 7:30 pm

### A. Continue tonight's meeting to February 12, 2013

Tobias motions to continue the February 4, 2013 to Tuesday, February 12, 2013 at 7:30 PM

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jay Tobias, Vice Mayor
<b>SECONDER:</b>	Steve Aitken, Councilman
<b>AYES:</b>	Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias