

MINUTES OF THE REGULAR MEETING OF THE COUNCIL OF THE TOWN OF
WARRENTON HELD ON FEBRUARY 9, 2016

The regular meeting of the Council of the Town of Warrenton was held on February 9, 2016 in the Town Council Chambers and was called to order by Mayor Powell Duggan at 7 p.m.

Councilmembers present: Mayor Powell L. Duggan, presiding, Vice Mayor Sunny Reynolds, Councilmembers Sean M. Polster, Jerry M. Wood, Joan R. Williams, Yakir M. Lubowsky, Robert H. Kravetz and John S. Lewis, Jr.

Also present: Brannon Godfrey, Town Manager, Whitson W. Robinson, Town Attorney, and Evelyn J. Weimer, Town Recorder.

Invocation was given by Councilman Jerry M. Wood.

CITIZENS TIME.

Mayor Duggan relayed his appreciation of a job well done by the Public Works, Police Department and Fire Department during and following the big snowstorm.

The Mayor called for citizens wishing to address Council.

Mr. Tony Tedeschi.

Mr. Tedeschi, 810 Ray Quick Court, came forward and presented a petition in opposition to a dog park at Rady Park. The signatures had been gathered by Mrs. Carl Zimmer. He urged reconsideration of the location of the dog park at Rady Park and vetting by the Parks and Recreation Committee.

Mr. Paul Schmeling.

Mr. Schmeling, 187 Sycamore Street, came forward representing Virginia is for Voters and asked if the Town's electronic sign board could be used to remind residents to vote the week prior to the primary and every subsequent election. Mayor Duggan noted that there was a process for use of the sign. Mr. Godfrey asked Mr. Schmeling to give him a call concerning use of the sign.

Mr. Carl Zimmer.

Mr. Zimmer came forward and asked when Council would take action on the petition. He noted that many senior citizens were very disturbed at the way the matter of the dog park has been handled and a petition has been provided which represents the majority of the neighborhood. He noted that he had received an email from Mr. Kravetz that he only had received verbal comments and nothing in writing. Mr. Kravetz noted that it was in response to Mr. Zimmer's email to him questioning the statement he had made that he had heard from about

as many people in favor of the dog park at Rady Park as were opposed. He stated that Mr. Zimmer had sent an email asking who they were and indicated that he would not contact them. He stated that they are people he meets while out walking through the neighborhood. He asks what their position is and these people gave their position on the matter. Mr. Zimmer noted he would appreciate some type of representation from the petition because it is very meaningful.

HEAR FROM CENTER DISTRICT SUPERVISOR.

Supervisor Granger came forward and noted that SB 549, the proffer bill, had been modified but not acted on. He stated that the Board of Supervisors had sent multiple correspondence to Senator Jill Vogel, who had indicated she would be a “no” vote. He further stated that the Town’s involvement would be welcome via a letter to the Senator showing opposition to the bill. He indicated that the bill would be eliminating proffers and not leaving anything in its place for jurisdictions to assess any type of impacts that a development may have on the localities. Ms. Reynolds noted that she and Mr. Polster had talked to their representatives while in Richmond and she was against the bill. She urged a letter be forwarded to Senator Vogel.

Supervisor Granger updated Council on the County’s side of the dog park issue. He stated that it is tied to the tri-party agreement between the Town, Fauquier County and the Arrington Farm developers. One of the things in the tri-party agreement was \$55,000 of a County Parks and Rec. proffer would be passed to the Town for construction of a dog park. He noted that the developer did request timelines for timeliness of the application. There has been discussion that the developer is under a timeline and a specified location. He stated that the County’s position is that the developer is not going to be held to a timeline and if the Council chooses to look at other locations, the developer will not be held to that location. He stated that the County is willing to work with the developer and the Town on the timing of the proffer and the location. He stated that he had talked with Supervisor Mary Leigh McDaniel and she is in agreement.

Mr. Wood asked if anyone had requested that the Senate bill be put in a study committee and Supervisor Granger responded but it has passed the House overwhelmingly.

PUBLIC HEARING.

Architectural Review Board Appeal – COAP 2015-22. The Town Council will consider an appeal to a decision of the Architectural Review Board for a proposal involving ten (10) townhouse units on the property at 67 Waterloo Street (GPIN 6984-34-4016). The property is zoned Central Business District (CBD) and consists of 0.5717 acres. The property is owned by H & C Investors LLC.

Mayor Duggan noted that the applicant had withdrawn the appeal and have it forwarded back to the Architectural Review Board. He stated that since the public hearing had been advertised, it would be held. He opened the public hearing at 7:14 p.m. and called for those citizens to speak for or against the action.

Mr. James Tucker.

Mr. Tucker, who serves on the A.R.B., noted that what the Council just received appeared only slightly modified from what the A.R.B. had denied.

Mr. Robinson noted that the attorney, Mr. John Foote, had noted that there were some changes and wanted the application to go back to the A.R.B. Mr. Robinson recommended sending it back under the original application so that there are no new fees assessed.

Mr. Bill Weaver.

Mr. Weaver, resident of 12 Smith Street, came forward and voiced opposition to the development due to a public safety concern. He stated that when Napoleon's burned, a fire truck could not go onto Smith Street. The firemen used the boom on the fire truck, which was parked in a parking lot, to spray their home and cars. He indicated that when the proposed townhouses are built, he has heard that they will be unable to turn a fire truck around in the center of the development's parking lot. He stated that there is an existing grandfathered home which opens directly out onto the street. He was concerned if the new homes opened onto the street there would be additional safety concerns.

There being no further persons to speak, the public hearing was closed at 7:20 p.m.

Mr. Lubowsky noted that the applicant is not starting a new application but if they appeal again, he wanted to avoid the comment that there has already been a public hearing held. He wanted to be sure that if there is another appeal it be treated as a new appeal, even though technically. Ms. Reynolds asked if the plans had changed why it would not be considered a new application and Mr. Robinson responded that it would be up to Council. He noted that the attorney for the applicant agreed to send it back to the A.R.B. but that it would not be charged any new fees.

Mr. Polster asked that something be put in place to begin to establish a process of this in the future.

Mr. Wood moved that the application be returned to the A.R.B. for further review upon receipt of the new material associated with the application. Mr. Kravetz seconded the motion.

Mr. Lubowsky noted that any change involved should put the Council on notice that they are no longer looking at what the A.R.B. considered. He asked that the matter be sent back to the A.R.B. for consideration.

Mr. Wood cautioned that the A.R.B. deals with historic guidelines and should review the matter again.

Mr. Robinson noted that Mr. Wood's motion was that the appeal be remanded back to the A.R.B. for review. Mr. Kravetz had seconded the motion. On a vote of 7-0 (for: Reynolds, Polster, Wood, Williams, Lubowsky, Kravetz, Lewis; against: none) the motion passed.

CONSENT AGENDA.

- a. Approval of Council minutes of the regular meeting held on January 12, 2016.
- b. Financial statement and staff reports and Board and Commission minutes.
 - 1) Financial statement for period ending January 31, 2016.
 - 2) January statement of accounts paid.
 - 3) Miscellaneous staff reports.
 - 4) Receive minutes of the regular meeting of the Architectural Review Board meeting held on October 22, 2015.
- c. Consideration of request of Molly's Irish Pub to hold the annual Molly's Irish Pub 5K on Sunday, March 20, 2016 and to authorize the street closures and traffic control measures
- d. Consideration of request of Blue Ridge Orthopedic Foundation to hold the annual Bodies in Motion 5K and 10K Run on Sunday, May 15, 2016, and to authorize the street closures and traffic control measures
- e. Consideration of request for full release of the Public Improvements Bond (No. 1054927) for Warrenton Heights aka King's Gate Subdivision.

On a motion by Mr. Lewis, seconded by Ms. Reynolds, the Consent Agenda was approved on a 7-0 Council vote (for: Reynolds, Polster, Wood, Williams, Lubowsky, Kravetz, Lewis; against: none).

NEW BUSINESS.

Request to waive Public Streets Standards per Article 4-2.8 of the Subdivision Ordinance and Public Facilities Manual to allow for the partial use of a portion of the unimproved street/alley reservation off Frazier Road as primary access to a proposed lot (Current PIN 6984-14-6921-000)

Mr. Godfrey noted that the applicant wanted to table the matter for 60 days. On a motion by Mr. Lubowsky, seconded by Mr. Lewis, the waiver to public street standards per Article 4-2.8 of the Subdivision Ordinance and Public Facilities Manual to allow for the partial use of a portion of the unimproved street/alley reservation off Frazier Road as a primary access to a proposed lot was tabled for 60 days on a 7-0 vote (for: Reynolds, Polster, Wood, Williams, Lubowsky, Kravetz, Lewis; against: none).

Resolution approving application to the Virginia Resources Authority (VRA) Pooled Financing Program for water and sewer capital improvements.

Mr. Godfrey noted that the Town would finance up to \$5.5 million in water and sewer improvements through a dual track funding strategy. He stated one of the tracks is to participate in the Virginia Resources Authority pooled bond issue in the Spring and the other track is to solicit competitively proposals from banks for a direct bank loan. He stated that because the VRA application has deadlines the recommendation was to adopt the resolution to participate in the VRA pooled issue process. He noted he would work with the financial advisors for preparation of the VRA application and the RFP for bank loans to be issued by the end of February. Following that, proposals will be evaluated to see which gives the Town the lowest borrowing costs, either the VRA option or the lowest competitive proposal from a bank. The results would be brought to Council at its March meeting at which time a public hearing will be held and a bond resolution adopted for one of the funding strategies.

The following resolution was presented for consideration:

**RESOLUTION APPROVING APPLICATION TO VIRGINIA RESOURCES
AUTHORITY POOLED FINANCING PROGRAM TO FINANCE WATER AND
SEWER UTILITY CAPITAL PROJECTS OF THE
TOWN OF WARRENTON, VIRGINIA**

WHEREAS, the Town Council (**the “Town Council”**) of the Town of Warrenton, Virginia (**the “Town”**) is in the process of evaluating multiple options in connection with the financing of various water and sewer utility system capital improvements in the Town (**together, the “Project”**);

WHEREAS, the Town Council has been advised that the Virginia Resources Authority (**“VRA”**), a public body corporate and political subdivision of the Commonwealth of Virginia, considers applications to finance various capital projects for local governments through its Pooled Financing Program (**the “Pool Program”**), which may result in an attractive financing option for the Town;

WHEREAS, the Town anticipates capital needs for the Project over the next several years of approximately \$12,000,000, to be financed and constructed in various stages and anticipates the need to provide financing for a portion of the Project in a principal amount of approximately \$5,500,000 to fund the initial capital improvements and to provide for any reserve funds and costs related thereto (**the “Initial Project”**); and

WHEREAS, the Town Council wishes to authorize Town staff to submit an application to VRA to finance the Initial Project through VRA’s spring pool issuance as one possible funding source to finance the Initial Project, and to solicit other financing options, including but not limited to direct bank financing, to be evaluated by Town staff with the assistance of Davenport & Company, LLC (**the “Financial Advisor”**) and Sands Anderson PC (**“Bond Counsel”**);

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WARRENTON, VIRGINIA:

Application to the Pool Program. In connection with the financing of the Initial Project, the Town Council hereby authorizes the Town Manager to apply to VRA’s Pool Program as a

possible funding source for the Initial Project. The issuance and sale of any obligations of the Town to VRA or any other lender shall only be approved upon subsequent action of Town Council.

Other Actions. All other actions of Town officials in conformity with the purposes and intent of this Resolution and in furtherance of the consideration of the Initial Project by VRA and the solicitation and evaluation of other financing options for the Initial Project are ratified, approved and confirmed. Town officials, the Financial Advisor and Bond Counsel, each as directed by the Town Manager, are authorized to prepare and provide any information or certifications considered necessary or desirable in connection with the application to the Pool Program and the consideration by VRA of the Town's application thereunder or any other financing options as directed by the Town Manager.

Effectiveness and Filing of Resolution. This Resolution shall become effective immediately upon its passage. Any ordinances or resolutions inconsistent herewith previously adopted by the Town Council are amended to be consistent with this Resolution.

On a motion by Mr. Lewis, seconded by Mr. Kravetz, the resolution was adopted on a 7-0 Council vote (for: Reynolds, Polster, Wood, Williams, Lubowsky, Kravetz, Lewis; against: none).

Consideration of provision of water service to Tiffany Estates.

Mr. Godfrey noted that there was additional information on the Council desk concerning additional proffers. He stated that Mr. David Dobson had requested that the Town serve his proposed 28-home development north of the Town located on Blackwell Road with Town water. The property is not in the designated service area as defined by the Town and County. He stated that the impact of the development is to consume 8,400 gallons per day of available water capacity based upon the standard 300 gpd per dwelling daily equivalent. He indicated that at the current rate structure the developer would pay \$277,200 in one-time availability fees, which is based upon twice the in-town rate. He noted that the size and quality of the houses planned for subdivision it is estimated that the water consumption for the entire development would generate an estimated \$1192/month in water user charges. As the project is in the County, the Town will not incur any costs related to Town services for the development. Mr. Godfrey stated that at the Utility Committee meeting Mr. Wood noted the possible traffic impact that the development would have on the Oak Springs/Blackwell Road intersection. He said that Mr. Dobson proffered an additional \$10,000 for a traffic analysis and a proposed three-way stop at the intersection. The Manager stated that at that meeting Mr. Lubowsky, Chairman of the Utility Committee, had suggested a three-tier availability fee structure. The first would be at the current rate for in-Town connections. Two would be for twice the in-Town rate for the connections who are in the service area, and the third would be three times the current in-Town rate for out of Town and out of service area. Mr. Lubowsky had noted at the meeting that Mr. Dobson's request preceded the suggested fee structure. Mr. Godfrey noted that the Utility Committee recommendation was to serve the property with Town water. The additional proffer just made by Mr. Dobson was that he would proffer the three times the in-Town for the availability fee for water. Ms. Reynolds questioned if that would be in addition to the \$10,000 proffered for public safety and Mr.

Godfrey noted that is what he proffered. Mr. Robinson asked Mr. Dobson, for the record, if that was correct and he indicated it was.

Mr. Lubowsky noted that the Manager was correct and the three tiered approach was discussed. However, it was noted that Mr. Dobson's request was grandfathered. He stated that Mr. Dobson did not attend the worksession and he contacted him to attend the Council meeting because it was not voted upon.

Mr. Robinson asked if it was Mr. Dobson's understanding that he would pay the three times in-Town availability fee and Mr. Dobson assured that was correct.

Mr. Lubowsky moved that the 28 taps sought by the applicant for the Tiffany Estates development on Blackwell Road be approved subject to conditions contained in the recent communication (part of the record). Mr. Wood seconded the motion.

Mr. Kravetz indicated his concern that the Town continues to give away its water and there would be a point in the future when it would be prohibitive. He stated that there are several substantial in-Town properties which would require water. He was inclined to vote for provision of water but that would be the last out-of-town property he would vote for provision of water in the future. Ms. Reynolds noted that her concerns somewhat echoes Mr. Kravetz's and there are four sizable properties within the Town to be developed. She noted that the water availability needed is based on current zoning. She stated all the properties are zoned industrial. One of the properties is in the process of changing the zoning to a mixed use which would have some residential most likely incorporated. She noted she was more inclined to provide water to Town developments rather than in the County and it encourages people to develop in Town. She noted she would support Mr. Dobson's request with what he had proffered.

Mr. Polster noted that it was another great opportunity to partner with the County before making a decision and consider the impacts on them. Mr. Lubowsky reminded Council that the applicant is by-right in the County and there was water there which could be provided by wells. He noted that there would also be no additional impact on the school seats, traffic, etc.

On a vote of 7-0 (for: Reynolds, Polster, Wood, Williams, Lubowsky, Kravetz, Lewis; against: none) Council approved providing water to Tiffany Estates at the three times the in-Town availability fee rate and an additional \$10,000 proffer for public safety.

REPORTS AND COMMUNICATIONS.

Report from Town Attorney.

Mr. Robinson noted that he would like an approval to advertise for the electronic meeting participation for the March Council meeting. On a motion by Mr. Lewis, seconded by Mr. Polster, Council approved advertisement of the proposed Code change on a vote of 7-0 (for: Reynolds, Polster, Wood, Williams, Lubowsky, Kravetz, Lewis; against: none).

Mr. Robinson noted that he and the County Attorney had met with an applicant (Appleton Campbell) who wanted to have his property boundary adjusted into the Town because he wanted to remain a Town business. Ms. Reynolds noted that a meeting had been scheduled concerning the design.

Report from Finance Committee.

Mr. Lewis noted that the retreat recently held gave a good understanding of the financial shortfalls the Town potentially faces.

Report from the Public Safety Committee.

Mr. Kravetz noted that he would be scheduling a meeting soon and asked that agenda items be forwarded to him.

Report from the Public Works Committee.

Mr. Lewis praised the efforts of the Public Works Department during the recent snowstorm. Mayor Duggan asked if there was any word on the amount of the proposed funds from FEMA and Mr. Godfrey noted that it would be around \$100,000.

Report from the Utilities Committee.

Mr. Lubowsky asked staff to prepare a revision to the schedule of access fees for review the next time the Utilities Committee meets. He stated that the Town access fee will be the baseline, people who are outside of Town but on the tri-party map entitled to water would be paying twice the fee, and a new category would be created for those outside of Town but not on the map who would pay three times the in-Town fee.

Mr. Godfrey noted that based upon Council's action to extend water to Tiffany Estates because it is currently outside the area to be served area, is there a process which needed to be taken with the County to get the service map amended. Mr. Lubowsky noted that the applicant had indicated that process had already been started with the County. Supervisor Granger noted that the County had not received any information and the tri-party agreement has to be amended. Mr. Godfrey noted that he would he would send the County some formal correspondence.

Report from Planning District 9 Representative

Mr. Lubowsky noted that there was no report.

Report from Transportation Committee.

Ms. Reynolds noted she did not have a report but requested that the Transportation Committee be combined with the Public Safety Committee. Mr. Kravetz noted that he believed the Transportation Safety Commission had been formed to obtain grants. Mr. Tucker confirmed that was correct. Mayor Duggan noted that usually committees are addressed at the

organizational meeting which will occur in July. He indicated that a joint meeting could occur in the meantime.

Report from Recreation Committee.

He stated that at the last P&R meeting there was a suggestion by Mr. Lubowsky to change the committee name to the Committee on Health, Parks and Recreation but understood the Mayor would have to approve the name change. He noted that there had been talk of a dog park meeting to be held the week of February 22nd. Mr. Lubowsky noted that the Council voted on the dog park and now the Parks and Rec. Committee wants to revisit it. He stated that there would be a will of Council that they intend to do and was not an attempt to reverse something done by Council. Mr. Polster noted that parklets on Main Street was discussed at the Parks and Rec. meeting and he was looking at to establishing a pilot program. He noted that the 2016 P&R calendar had been developed. He reminded that the WARF open house is scheduled for March 19.

Report from Liaison Committee representative.

The committee will meet on February 22.

Report from the Historic District Planning Committee.

Mr. Lewis stated that Mr. Keith Macdonald is developing plans and renderings for use of his property.

Update on Special Task Force.

Mr. Lubowsky noted that he had proposed at the Council's budget retreat that as far as disaster recovery the Town needed to forge ahead with its own plan. He stated that putting an amount in the budget to facilitate that was important. He indicated that there was some push-back and it was felt that the County take care of it for the Town. He noted that the Special Task Force was created to give the Town its own unique capacity with the understanding that it would be interfacing with the County. The former Town Manager had agreed one half a employee position to accomplish this and it was a matter that should be revisited. Mr. Lubowsky noted that he would come forth with a specific budget item to be prepared when the pressure is on the community is highest in an emergency situation.

Report from the Town Manager.

Mr. Godfrey had nothing further to discuss.

COUNCILMEMBERS' TIME.

Mr. Lewis noted that would not be seeking re-election as Councilman for Ward 5.

Mr. Kravetz stated that he would be seeking re-election to the Ward 4 seat for another four years.

Mr. Polster thanked Public Works, Police and Fire Departments for their work during the snowstorm. He noted that sections of the sign ordinance needed to be rewritten rather than done piecemeal and he would be bringing it forth for discussion at the next worksession.

Mrs. Williams indicated that she was unsure whether she would seek another term on Council and would decide soon. Mr. Kravetz noted to her that the filing date is by 7 p.m. on March 1 and required 25 signatures of registered voters.

Mr. Lubowsky noted that no action was taken on Senate Bill 549 concerning developer's proffers.

Mr. Lubowsky moved that the Town Manager prepare a letter derived substantially from the arguments made by the County and it be presented for the Mayor's signature. Mr. Kravetz seconded the motion and Council approved on a 7-0 vote (for: Reynolds, Polster, Wood, Williams, Lubowsky, Kravetz, Lewis; against: none).

Mr. Lubowsky noted that the Brentmoor Task Force was ready to come forth with a recommendation for use of Brentmoor. He stated that he would be in Japan on March 3 and could not attend the regularly scheduled worksession. He stated Council could proceed without him or the worksession date be changed. After discussion, Council consensus was that a special worksession would be held at 6 p.m. prior to the March 9 Council meeting.

There being no further business, the meeting adjourned at 8:30 p.m.

Evelyn J. Weimer, Town Recorder