

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

The regular meeting of the Council of the Town of Warrenton was held on August 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, Sunny Reynolds, Vice Mayor, Councilmembers Sean M. Polster, Jerry M. Wood, Alec P. Burnett, Brett A. Hamby, Robert H. Kravetz and Kevin T. Carter.

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.

APPROVAL OF THE AGENDA.

Mayor Duggan called for approval of the agenda but noted that there had been a request for an addition of a Closed Session. On a motion by Ms. Reynolds, seconded by Mr. Hamby, the addition of a Closed Session was approved on a 7-0 Council vote (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter; against: None).

CITIZENS TIME.

Presentation of Fundraising Gift from Fat Tuesday's to Town Police Department and Warrenton Volunteer Fire Company

Mr. Polster noted that Fat Tuesday's restaurant had a car show and the restaurant wanted to donate funds to both the Police and Fire Departments. Police Chief Lou Battle and Fire Chief Sam Myers accepted a check from Fat Tuesday's.

Water Treatment Plant 2015 Bronze Award

Mr. Edward Tucker, Public Works/Utilities Director came forward and noted that the Town's Water Treatment Plant had received the 2015 Bronze Award. He presented the award to Mr. Glenn Coppage, Water Treatment Plant Superintendent.

The Mayor called for those citizens wishing to speak.

Mr. Keith Macdonald.

Mr. Macdonald came forward and stated that he had met with the Board of Supervisors and had spent well over \$60,000 for his proposal. He indicated that there are two areas that the Town should consider for the library location. He noted one is on Alexandria Pike and had at least six deficits and the other on Chestnut would require rezoning from the current R-6 zoning.

He noted that he was the owner one of the largest CBD land site in Town and the taking of that property would diminish the value of his land.

HEAR FROM CENTER DISTRICT SUPERVISOR.

Supervisor Granger came forward and noted that the County had added Broadview Avenue to its resolution of VDOT priorities. He noted it would be added as number three or four on the priority list. He stated that the County was also taking up a noise ordinance.

PUBLIC HEARINGS.

Special Use Permit 2016-01 – Detached Garage with Studio Apartment in R-6 District.

The request, per Article 3-4.3.3 of the Zoning Ordinance, is to build a detached garage with an accessory dwelling unit on the second floor at 23 N Chestnut Street. The parcel is zoned Residential – R-6, and the Comprehensive Plan identifies the property as medium density residential on the future land use plan. The owners are Richard D. Wright and Susan G. Wright.

The Manager stated that before each of the public hearings there would be a Powerpoint presentation by Ms. Denise Harris. Ms. Harris indicated that the application is for a special use permit for a studio apartment in an R-6 district above a by-right garage.

Ms. Harris said the applicant is proposing to build a garage and wants to have an accessory dwelling above it. It is located on about a third of an acre and calls for medium density which allows up to five dwelling units per acre. The surrounding land uses are residential. It is located in the historic district between Winchester and Waterloo Streets. The current house has three apartments within it and the applicant is proposing to build a garage on the property. She showed a sketch showing the parking and overall layout. Ms. Harris stated that in February a meeting was held by the ARB and they found it to be a non-contributing structure and gave its approval for a COA with the conditions it would have a building permit issued, a special use permit is required and that the window treatment reflect a contemporary design. The Planning Commission held a public hearing on July 26 and no one spoke to the application other than the applicant. The Planning Commission voted to forward the application to the Council with the following conditions:

1. A building permit application is submitted.
2. All accessory structures must maintain conformity with Article 9-1 of the Zoning Ordinance.
3. Lighting fixtures must be full cutoff unless they use lights that are incandescent 160 watts or less, fossil fuel, any light source of 50 watts or less, as per Article 9-8.6.2.8
4. The accessory dwelling unit shall be required to have separate connections for water and sewer as required by Sections 17-68 and 17-69 of the Warrenton Town Code.
5. The development shall be in substantial conformance with the plans submitted on June 13, 2016 and Certificate of Appropriateness 2016-01.
6. There shall be no waivers from the required setbacks and buffers at the time of site plan review

Mayor Duggan asked if the accessory building would be painted white to match the house and she indicated it was part of the A.R.B. approval that it needs to be in substantial conformance. She stated that the stipulation of color could be added.

The Town Attorney asked that Ms. Harris comment about the definition of “accessory structure.” Ms. Harris noted that in 2013 the Council amended the definition of “accessory structure” to be that the living quarters must be for household employees or caretakers whether the accessory structure is attached or detached. She stated that the applicant was aware of the terminology and indicated he would abide by it. Mr. Carter asked if that information was known when the Planning Commission voted on the application and Ms. Harris indicated the applicant was not.

Mr. Burnett asked if from a zoning perspective there were limits on the number of units which could be considered as rental property with revenue coming to the property owner. Ms. Harris stated that there is nothing which speaks to rental properties but does speak to multi-family and there could be up to three separate families within. Mr. Hamby asked if the Town would have to enforce that and Ms. Harris indicated it would be zoning issue.

Mr. Polster asked if Planning had imposed additional conditions if they knew ahead of time this was the case. Ms. Harris stated that no since it was a land use. Mr. Kravetz asked if the applicant was aware that the accessory building would have to be inhabited by a caretaker or household member and Ms. Harris stated that the applicant would have to speak to it.

Ms. Reynolds noted that she was concerned because the information in front of the Council was not what the Planning Commission voted on. She stated that she did not feel that the application would fit into affordable housing in the Comprehensive Plan.

The Mayor opened the public hearing at 7:20 p.m. and called for those to speak in favor.

Mr. Richard Wright

Mr. Wright stated that when he moved to Warrenton that he wanted to build a garage with a studio apartment to rent for income. He did not know that there were any restrictions at that time and did not know until the second meeting, at which time he was called into the office and told about it. He did not change anything and had he known it in the beginning it would have changed some of his thinking. He noted he had to invest money into getting a survey which cost \$600 and purchase building plans, and he felt at a disadvantage. He stated that he had indicated that the studio apartment would rent for about \$1000 and the big apartments about \$1800. He said he plans to live at the location and use the rental of the garage/studio apartment for income. Mr. Kravetz asked if the caretaker would be of the property or a person and Mr. Wright responded that he had no plans to hire a groundskeeper. Mayor Duggan asked Mr. Wright to clarify his statement that there would not be a residence located at the top and Mr. Wright stated that if he chose to make it a studio/residence if he would be able to use it as a guest house for his family who would be coming to visit. Mr. Robinson noted that he was not aware of accessory limitation to it until it was brought to his attention. Once that occurred he was asked to come to the Planning Department to make sure that the Mr. Wright wished to continue forward. Mr. Wright noted that he was unaware of the restrictions.

Mr. Wood asked about the parking required and Mr. Wright noted it was noted as spaces on the plan. Mr. Wright noted that he had to invest funds into the project prior to knowing the restrictions. He stated the reasoning behind his decision to move forward was since he had already invested the funds, he would see what would be done.

Mayor Duggan called for those to speak for or against the request. There were no citizens wishing to speak, the public hearing was closed at 7:32 p.m.

Mr. Kravetz noted that there seemed to be some confusion and unanswered questions. He was concerned that perhaps the Planning Commission did not have everything before them when they considered the request. He suggested that it maybe should be referred back to the Planning Commission.

Mr. Polster felt it would also give the applicant time to ask about the other accessory uses. Mr. Carter stated that the applicant finding out late in the game what the restrictions are was a disadvantaged. He felt that the Planning Commission should reevaluate the application.

On a motion by Mr. Kravetz, seconded by Mr. Wood, the Council voted 7-0 (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter; against: none) to send the application back to the Planning Commission for review.

Town Code Amendment - Mobile Food Vendors. This is an amendment to Section 9-69 (d) of the Itinerant Merchant regulations that would allow mobile food vendors to locate on specified properties within the Public Semi-Public (PSP) and Industrial (I)zoning districts per the Mobile Food Vendor Policy and Procedures document through the Town Manager's office and Zoning Ordinance. Article 9-24. The applicant is the Town of Warrenton.

ZTA 16-01 – Mobile Food Vendors. This is a proposed adoption of Article 9-24 (Mobile Food Vendors) and an amendment to Article 3-4.9.2, Article 3-4.12.5, and Article 12 of the Zoning Ordinance. Article 9-24 contains proposed regulations and requirements regarding Mobile Food Vendors. The amendment to the Public Semi-Public (Article 3-4.9.2) and Industrial Districts (Article 304.12.5) of the Zoning Ordinance is to add mobile food vendor as a by right use as permitted per Article 9-24. The amendment of Article 12 of the Zoning Ordinance is to add a definition of a Mobile Food Vendor. The applicant is the Town of Warrenton.

Mr. Godfrey noted that there are two public hearings associated with mobile food vendors. Ms. Harris came forward to give the staff report.

Ms. Harris noted the process is three parts: 1) Town Code amendment, 2) zoning ordinance amendment and 3) creation of the procedure. She stated that currently there is no location in the Town Code allowing food vendors so the process would create the ability for merchants to come forward and operate in an affirmative way. She stated that the zoning ordinance amendment would allow mobile food vendors in industrial and public and semi public zoning districts. The designated public sites would include the W.A.R.F. and Rady Park. The policy and procedures relate to the operation of the permit and would be administered by the Town Manager. She noted that mobile food vendors would be allowed as a merchant within the

Town. Ms. Harris noted that the zoning ordinance regulations would include a description of the allowable parking area, where not to park, the hours of operation, how trash would be handled, there would have to be insurance and monthly reports for meals tax would have to be submitted.

She noted that the material distributed indicated how to collect taxes. She stated that the Planning Commission reviewed the application for several months and in July the Planning Commission voted for recommendation and approval.

Ms. Reynolds asked if there had been any consideration about the noise from the generators. She stated that she said that she heard complaints about the generators of the food vendors during the First Friday event. Ms. Harris stated that the Planning Commission had discussed the matter. Mr. Godfrey noted that the First Friday event the food truck was parked between the Warren-Green building and Town Hall, as opposed to the PSP or industrial park, it is not likely to be that kind of echo chamber. Mr. Wood indicated that he had noted the generator noise also and asked if there was a decibel restriction. Mr. Robinson stated that several years ago the Virginia Beach noise ordinance which was similar to others across the Commonwealth, was challenged and the Supreme Court determined it was too subjective. Most noise ordinances have been deemed unconstitutional and the County has redone the County noise ordinance and the Town was waiting for them to finish so the Town could follow behind them.

Mr. Kravetz asked if there is anything indicating hours of operation and the Manager stated that within the attachment to the policy. It was the hours would be 8 a.m. to 9 p.m. Ms. Harris indicated they would be 8 a.m. to 9 p.m. or as many hours as indicated by the Town Manager.

Mr. Kravetz noted that the Rady Park neighbors probably are not aware of the proposal and he would like them to have an opportunity to weigh in on the matter. He stated that if the generator is loud then there would be many complaints. Mr. Robinson stated that the public hearing could be left open. Mr. Wood stated that some of the residents know and he had talked with a number of people who are his friends who live in the area. Mr. Kravetz wanted all residents to be notified.

Ms. Reynolds asked if the W.A.R.F. could be given approval but the Town Attorney noted that the public hearing had been advertised in a different way.

Mr. Burnett noted he was in favor of the concept of food vendors and was a great idea to drive commerce and at the same time satisfying need. He also felt that emissions may need to be discussed. He asked how the Town could support the growth of the mobile food vendors.

Mr. Wood was confused about the “designated space.” Mr. Godfrey noted that whether it is one or a multiple of one the vendor stay within a designated parking area. Ms. Harris noted if a vehicle took up more than one space then within the procedure process the applicant could say we would like to park the vehicle in these spaces and they cannot be handicapped or within ten feet of an intersection.

Mr. Polster noted that often there are trailers with tents and maybe there should be a definition indicating trailers are permitted. Ms. Harris noted that is the reason for the move from food trucks to mobile food vendors. Mr. Polster also noted he had a question under the prohibitive section where it said there should be no signs, etc. in roadway or on sidewalks but then on the very next section it says that the receptacles would be supplied for these by the customers as long it meets the prohibitive section. Mr. Polster felt that trash receptacles should not be prohibited due to the amount of trash that food trucks generate. Mr. Godfrey noted that the in the prohibited section it indicated that you could not obstruct the sidewalk or roadway.

Mayor Duggan opened the public hearing on the Town Code amendment at 7:57 p.m. and called for those to speak for or against the application.

Ms. Kelly Ann Richardson.

Ms. Richardson came forward and noted that she was not against the application but asked why the food trucks would be limited only to the W.A.R.F. and Rady Park. She stated that there was a downtown meeting held recently and all were in favor of mobile food vendors.

Mr. David Dobson.

Mr. Dobson came forward and noted he was in favor of the mobile food vendors. He explained that his property located at 615 Falmouth Street has four very large parking lots and felt it great to just give it a try. He said he had about a half mile frontage on the Warrenton Greenway and there was no place to obtain water, etc.

Ms. Rebecca Schneider.

Ms. Schneider, SOBO mobile food truck owner, came forward and noted that they would like to access the Central Business District. She stated that they had talked with Wort Hog Brewery who will not have a food area.

Mayor Duggan asked Council if they wished to keep the public hearing open. On a motion by Mr. Kravetz, seconded by Ms. Reynolds, Council voted 7-0 (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none) to keep the public hearing open and table the item until the September meeting.

Mr. Kravetz noted he was not opposed to the concept but it needed refinement based upon the input received. Mr. Polster wanted to make sure that the definition are defined correctly and the PSP space includes schools, police department, trails and a broad rush to paint where these are. He also suggested a clause which would say that there will be a twelve-month review period.

Ms. Reynolds noted that the Wort Hog Brewery had made arrangements with local restaurants to have food available.

Mayor Duggan noted that the next public hearing would be on the mobile food vendors zoning amendment. The public hearing was opened at 8:10 p.m. Mayor Duggan called for those wishing to speak for or against. There were no citizens wishing to speak.

On a motion by Ms. Reynolds, seconded by Mr. Wood, the Council voted 7-0 (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none) to keep the public hearing open and table the item until the September meeting.

Mr. Hamby noted that there are more restaurants for the food trucks and he would like for them to see at the next meeting.

Ms. Reynolds asked how the residents at Rady Park would be notified. Mr. Godfrey noted it would be posted on the bulletin board in the park and adjoining property owners would be notified. Mr. Kravetz noted he would also make some phone calls.

CONSENT AGENDA.

- a. Approval of Council minutes of the regular meeting held on July 12, 2016.
- b. Financial statement and staff reports and Board and Commission minutes.
 - (1) Financial statement for period ending July 31, 2016.
 - (2) July statement of accounts paid.
 - (3) Miscellaneous staff reports.
 - (4) Receive minutes of the Planning Commission meeting held on June 21, 2016 and Architectural Review Board on June 23, 2016.

Mr. Godfrey noted Ms. Stephanie Miller would be detailing what is included in the financial statement. Ms. Miller came forward and went over the July 31, 2016 financial statement.

Mr. Burnett asked the primary areas that the Council should be aware of and Ms. Miller responded that comparing the total cash and investments from one period to the prior period.

Mr. Carter asked how long the investment strategies and policies were reviewed and Ms. Miller noted that it something that staff has wanted to look at. She stated that the state prescribes the type of investments.

On a motion by Mr. Kravetz, seconded by Mr. Carter, the Consent Agenda was approved on a 7-0 Council vote (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none).

NEW BUSINESS.

Consideration of Mission/Value Statements and Code of Ethics.

Mr. Godfrey noted that Council had discussed these items at its last retreat. He presented the Mission/Value Statements and Code of Ethics for consideration.

On a motion by Ms. Reynolds, seconded by Mr. Carter, the Council approved the Mission/Value Statements and Code of Ethics for each of its boards and commissions on a Council vote of 7-0 (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none).

UNFINISHED BUSINESS.

Brentmoor/Mosby House discussion.

Mr. Kravetz stated that he recommended the item be placed on the agenda. He stated it was discussed at the retreat that the space be used for the Visitor Center and other Town offices. He suggested a motion or consensus that the Mosby House be wholly used as a museum but the staff will come back at the next Council with proposals and recommendations on the use for the building. Mr. Kravetz put the recommendation in the form of a motion and Ms. Reynolds seconded it. Mr. Carter clarified that staff consider a variety of uses for the space and look at the value of the property for sale.

Mr. Kravetz stated that the cost to install bathrooms may be and Mr. Hamby noted that also the ADA compliance changes costs. Mr. Kravetz suggested a letter be sent to the members of the Brentmoor Task Force thanking them for their work and letting them know what has been decided.

Mr. Wood stated that he felt that parking was also a concern and the neighbors should be contacted regarding parking.

Mr. Kravetz amended his motion to state that the matter would be discussed at the September worksession rather than the September Council meeting. Ms. Reynolds, as seconder of the motion, was agreeable with the amendment.

On a vote of 7-0 the motion, as amended, was passed (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none).

REPORTS AND COMMUNICATIONS.

Report from Town Attorney.

The Town Attorney noted he had nothing further to bring to Council's attention.

Report from Finance Committee.

Mr. Wood noted that the first Finance Committee meeting is planned for August 15 at 7 p.m. He highlighted some of the items which would be on the agenda.

Report from the Public Safety and Transportation Committee.

Mr. Kravetz noted the committee would meet on August 17 at 9 a.m.

Report from the Public Works and Utilities Committee.

Ms. Reynolds noted that the Public Works/Utilities Committee would meet on August 15 at 3 p.m. in Council Chambers. She highlighted some items discussed at the July meeting.

Report from Planning District 9 Representative

The representatives had not attended a meeting as yet.

Report from Recreation Committee.

Mr. Polster stated a meeting would be set soon. He asked that the committee name be changed to Committee on Health, Parks and Recreation to reflect the broad picture of what the committee is trying to do in the Town.

On a motion by Mr. Carter, seconded by Mr. Kravetz, the Committee name was changed to Committee on Health, Parks and Recreation on a 7-0 Council vote (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none).

Mr. Polster asked that there be citizen representatives on the committee. On a motion by Mr. Carter, seconded by Mr. Kravetz, the Council voted 7-0 to add three citizens to the Committee on Health, Parks and Recreation (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none). The three names would be referred back to Council for addition to the Committee.

Report from Liaison Committee representative.

Ms. Reynolds noted a meeting would be held soon.

Report from the Town Manager.

Mr. Godfrey had no additional information to bring to Council's attention.

COUNCILMEMBERS' TIME.

Mr. Burnett reiterated the importance of the mission and value statement and its transparency.

Ms. Reynolds noted that she had discussion about changing the direction of Third Street. Mr. Robinson noted that a Town Code revision would be necessary. Mr. Godfrey noted the item would be advertised for public hearing at the September Council meeting.

On a motion by Mr. Carter, seconded by Ms. Reynolds, Council voted 7-0 (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none) to hold a public hearing at the September 13 Council meeting on changing the direction on Third Street.

Mr. Kravetz noted that he had gotten contribution to cover 70% of the costs for the Halloween Parade.

CLOSED SESSION – for the purpose of discussion of a personnel matter, specifically discussion of appointment of a public officer on the Planning Commission, as authorized in Section 2.2-3711(A) (1).

On a motion by Mr. Kravetz, seconded by Mr. Carter, Council voted 7-0 (for: Reynolds, Polster, Wood, Brunett, Hamby, Kravetz, Carter, against: none), the general session was adjourned and the closed session convened.

On a motion by Mr. Kravetz, seconded by Mr. Carter, and a Council vote by show of hands of 7-0 (for: Reynolds, Polster, Wood, Burnett, Hamby, Kravetz, Carter, against: none), the general session was reconvened. PROPER CERTIFICATION IS FILED.

There being no further business, the meeting adjourned at 9:30 p.m.

Evelyn J. Weimer, Town Recorder