

Haymarket Town Council - Mayor Pamela E. Stutz
15000 Washington Street, #100-Haymarket, Virginia 20169
Wednesday, October 5, 2011

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

Roll Call

Tobias, Leake, Stutz, Scarbrough, Kenworthy, Weir

Planning Commission Public Hearings

Roll Call

Ivancic, Jarboe, Bare, Weir

Chair Bare calls the PC Public Hearing to order for the Transitional Commercial Zoning District text:

Chair calls for anyone in favor of the proposed text who would like to speak
No public comment

Chair calls for anyone opposed to the proposed text who would like to speak
No public comment

Chair Bare calls the PC Public Hearing to order for the Town initiated zoning text amendments. The code sections proposed to be amended are 58-1 Definitions; 58-11 Minimum off-street parking; 58-12 zoning of annexed area; 58-257 (16) Use regulations; 58-470 Appeal procedure:

Chair calls for anyone in favor of the proposed text changes who would like to speak
No public comment

Chair calls for anyone opposed to the proposed text changes who would like to speak
No public comment

Weir moves to forward to the Town Council the Town initiated zoning text amendments with a recommendation of approval, Jarboe seconds; Bare-Yes, Ivancic-Yes, Jarboe-Yes, Weir-Yes

Weir moves to forward the Transitional Commercial zoning district text to the Town Council with a recommendation of approval, Jarboe seconds; Bare-Yes, Ivancic-Yes, Jarboe-Yes, Weir-Yes

**Jarboe moves to adjourn the special meeting of the Planning Commission at 7:04 p.m., Weir seconds;
Ayes: 4 Nays: 0**

Town Council Public Hearings

Mayor Stutz calls the Public Hearing to order for the Town initiated zoning text amendments. The code sections proposed to be amended are 58-1 Definitions; 58-11 Minimum off-street parking; 58-12 zoning of annexed area; 58-257 (16) Use regulations; 58-470 Appeal procedure.

Mayor Stutz calls for anyone in favor of the proposed text changes who would like to speak
No public comment

Mayor Stutz calls for anyone opposed to the proposed text changes who would like to speak
No public comment

Mayor Stutz calls the PC Public Hearing to order for the Commercial Transitional Zoning District:

Mayor Stutz calls for anyone in favor of the proposed district who would like to speak
No public comment

Mayor Stutz calls for anyone opposed to the proposed district who would like to speak
No public comment

Citizen's Time

No public comment

Minutes

Tobias moves to approve the minutes of September 6, 2011, Weir seconds;
Ayes: 6 Nays: 0

Tobias motions to approve the minutes of September 19, 2011, Weir seconds;
Ayes: 5 Nays: 0 Abstain: Cole

Zoning Permit Application

Weir moves to approve the zoning permit application #ZP20110817 for assembly of electrical appliances, electronic instruments and devices for David Kamm to be located at 6608 James Madison Highway in accordance with Section 58-257 (1) of the Town Code, Tobias seconds;
Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Haymarket Regional Food Pantry

Weir moves to approve the lease extension for the Haymarket Regional Food Pantry to be located at 14740 Washington Street; new lease will run through January 1, 2014, Tobias seconds;

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

15150 Washington Street – General Development Plan

Mr. Guy Gravett is representing the land owner, BM Smith & Associates. This parcel is 20.98 acres and is currently the largest parcel of undeveloped land in the Town. The development plan proposes 68,875 square feet of retail; 77,700 square feet of office; 250,293 square feet of residential (260 units); Lot coverage proposed is less than 70%; and there are 1,406 parking spaces proposed (1390 required by code).

Cole: How tall are the 3 story buildings? Less than 35'.

Weir: Our ordinance does not currently allow the apartment use, we would have to do a waiver or text amendment. Mr. Gravett explains that they are introducing a concept and they have not done the traffic studies or fully engineered the project yet. Weir reminds about the improvements at 15 & 55, Weir is concerned about possible condemnation proceedings. Weir's initial gut reaction is he is not particularly amenable to the apartment use.

Cole: Thinks they have some good ideas

Leake: Likes the plan

Tobias: asks about the types of retail and office. Mr. Gravett explains that there should be a lot of medical use. Green space is greater than 30% of the site.

Cole asks if the target would be retirement for the apartments. Mr. Gravett responds that the median rental will be around \$1,700/mo.

Mayor asks about bedrooms, they will be larger units, they will be heavier on the 2's & 3's, and lighter on the 1's. Mayor asks about the sound barriers.

The Town Attorney comments that a plan such as this creates excellent opportunities for both the land owner and the Town.

Commercial Transitional Zoning District

Weir moves to defer the Commercial Transitional Zoning District agenda item to the October 24 continuation meeting, Kenworthy seconds;

Ayes: 6 Nays: 0

Planning Commission Vacancy

Tobias moves to defer the agenda item of Planning Commission Vacancy to October 24, 2011, Cole seconds;

Ayes: 6 Nays: 0

Building Official – James R. Lowery, Jr.

Weir moves to defer the Building Official's report to the continuation meeting of October 24, 2011, Tobias seconds;

Ayes: 6 Nays: 0

Police Report – Chief James Roop

Cole moves to appoint the Chief James Roop to the Bull Run ASAP policy board, Scarbrough seconds;

Ayes: 6 Nays: 0

Chief thanks Councilman Kenworthy for his contribution for the children's police badges. He donated approximately \$490 for the purchase of these items.

Cruiser Purchase

Tobias recommends that the Town refinance the existing two 2009 police cruisers and also finance the new vehicle all together as a bundle. The auditors commented that we could do either finance or purchase, but the auditors are not aware of the potential upcoming financial commitments.

Tobias motions to instruct the Clerk to advertise a public hearing for two options of purchasing a new police cruiser; 1st option being a refinance of the two 2009 cruiser and the new 2011 cruiser as a bundle; the 2nd option being an outright purchase of the 2011 cruiser, Weir seconds;

Ayes: 6 Nays: 0

Haymarket Day police officers' food will be under the Events expense line item of the budget.

Closed Session

Tobias motions to enter into closed session pursuant to 2.2-3711 A(29) for discussion the award of a public contract, namely a contract for public events in the Town to be handled by ATTIVA Corporation, 15.2-2907 (B) matter relating to possible annexation 2.2-3711 (A) (7) legal advise pertaining to a certain town charter provision.

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

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

Treasurer's Report – James Naradzay

Tobias motions the following 2nd Quarter Appropriations:

\$215,799 Capital Improvements & Repairs

\$3,375 Events

\$68,340 Operating Expenses

\$21,850 Public Safety

\$27,525 Public Works

\$51,698 Town Owned property

Leake seconds;

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

EVENTS CONTRACT

Tobias moves that the town adopt the contract dated October 5, 2011 between Town of Haymarket and ATTIVA Corporation, the contract is to be valid through December 31, 2013,

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

Tobias further move that the town provide written approval to ATTIVA to allow for the Oktoberfest to be held on October 22, 2011 with the stipulation that should ATTIVA succeed in gaining an ABC license there will be a uniformed security officer, certified by DCJS or a police officer, not employed by the Town, at the beer garden area at all times, Cole seconds;

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

Tobias moves that the Town respectfully deny the request from ATTIVA Corporation for a refund of stipends already paid, totaling \$1,000, Leake seconds;

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

Tobias motions that for any event specifically called out in the events contract, the TC hereby suspends the collection of food tax by paying food vendors for the day of the events, Kenworthy seconds;

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

Developments outside of the Town

Weir moves that the Town Council task the Planning Commission with drafting zoning text amendment to apply the Town subdivision ordinances and review processes to all properties within 1 mile of the town, Kenworthy seconds;
Tobias-abstain, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Weir moves that the Town Council instruct the Town Attorney to forward a letter to the PWC Board of County Supervisors Chairman, County Attorney, and Clerk of the Circuit Court regarding the recordation of subdivision plats for Landbay 3 Market Center @ Haymarket. The letter should be from the Mayor, Tobias seconds; Discussion: Why are we limiting it to that project? Please add a requested response date of Friday October 14, 2011
Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Weir motions to instruct the Town Attorney to contact the Prince William County Attorney to ascertain the county's position on the validity of the current site plan for Market Center @ Haymarket Land Bay 3 given the county's zoning administrators determination of June 11, 2007 and September 5, 2007 which seem to significantly alter the proffers of PLN2002-00017, Leake seconds; Discussion: Tobias asks the Town Attorney how much research will be involved. Mr. Bennett responds probably around 4-5 hours
Tobias-No, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Cole motions to instruct the Clerk to advertise a public hearing for October 24, 2011 to solicit input from town residents on the proposed Wal-Mart Supercenter to be located at the intersection of Routes 15 & 55, Leake seconds;
Tobias-Yes, Leake-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes

Scarbrough motions to continue the regularly scheduled meeting of October 5, 2011 to October 24, 2011, Kenworthy seconds;
Ayes: 6 Nays: 0

Submitted:

Approved:


Jennifer Prett, Town Clerk


Pamela E. Stutz, Mayor

CONTRACT

This Agreement made and entered into this 5th day of October, 2011, by and between the TOWN OF HAYMARKET, VIRGINIA, a body politic, herein called "Town" and ATTIVA CORPORATION, INC., dba SPEND THE DAY IN HAYMARKET, herein called "Promoter". This Contract shall become effective on October 5, 2011 and shall remain in effect until December 31, 2013 and supersedes the agreement between the two parties dated June 8, 2011.

WITNESSETH:

RECITALS

1. The Promoter is desirous of promoting, staging, conducting and arranging events on behalf of the Town of Haymarket. The Town of Haymarket is desirous of having the promoter promote, stage, conduct and arrange the identified events and requires that a "stipend" of \$500.00 be paid by the promoter for certain events as follows:

Events for which a stipend will be paid are:

Oktoberfest – October

Earth Day - April

Haymarket Car Show – June

4th of July (or Old Fashioned Picnic and BBQ) - July

Haymarket Day – September

Events which the promoter will promote, stage, conduct and arrange for which no stipend will be paid to the Town are:

Haymarket Hoe down - March

Three (3) Concerts Between May and September

Holiday Party – December

Any additional event not named in this contract must be approved by the town of Haymarket at least 60 days in advance of the event.

If other parties desire to organize or sponsor similar events, the Town shall first refer such parties to the Promoter to work out an agreement, but if none can be reached, such party may thereafter negotiate with the Town, realizing the Town will be reluctant to agree to other promoters.

2. The Town, acting through its Town Council, has determined that such events are in the best interests of the citizens and businesses of the Town and will promote the recreational and cultural opportunities of its citizens and business opportunities of its businesses.

3. The parties are desirous of setting forth their rights and responsibilities and relationship and to establish that the Town shall have no liability whatsoever, in any fashion for any of the activities or inactivities of the Promoter in relation to any of these events.


NOW THEREFORE, this Contract which provides as follows:

1. The foregoing recitals are incorporated by reference.
2. The Town agrees that so long as this Agreement remains in effect

that it may, but shall not be required to:

- a. Assist Promoter in getting approvals for any road closures.
- b. Provide Town of Haymarket Police presence at all events for traffic and crowd control.



- c. Assist Promoter, if requested, in the promotion of any event as described in “d.” below. However, Town employees will not be used for the organization or conduct of any event except for the Town Police Department staff for security enforcement. The Town shall have no liability or responsibility whatsoever for the organization or conduct of any event, the safety of the site, the safety of any person going to or from or upon such site, or attending such activity in any fashion whatsoever. The Promoter shall be solely responsible for organizing, staging and conducting any event.
 - d. List the Promoter’s events on the Town’s website during the existence of this Agreement and to promote such events in such other fashions as the Town may see fit in its sole discretion.
 - e. Allow, as the Town may deem appropriate the use of town property, except for town buildings and their interiors, so as to allow vendor staging in appropriate areas designated by the Town, but upon the understanding the Town retains control of all its property.
 - f. Invoice the promoter within 15 days of any event for any personnel or other expenses incurred by the Town.
3. The Promoter shall:
- a. reimburse the Town within 10 days for any invoice for Police personnel or other costs attributable by the Town for 



accommodating or assisting the Promoter in any fashion. The Promoter shall provide, upon execution of this contract, a refundable deposit of \$1,000.00 that may be drawn upon by the Town in the event of any late payment of stipends or expenses owed to the Town. Payment will be applied to insure that the deposit amount remains \$1,000.00. The deposit, or any remaining amount of the deposit, will be refundable only at the end of the contract period or at such time as the contract is ended by mutual agreement by the two parties.

- b. make a payment (stipend) in the sum of \$500.00 within 10 days of any event to the Town's general fund to be used as the Town may hereafter lawfully determine.
- c. conduct all such events in strict conformity with all federal, state and local laws, regulations and requirements and maintain a safe and orderly site and to conduct each such event in a safe and orderly fashion adequately supervised and inspected; insure a wholesome family, and in some cases wholesome adult recreational and cultural environment and also promote the businesses in the Town which may benefit from such activities; and to do all other things necessary to conduct each and every event and organize the same so as to insure and prevent injury to property or person or death or other injury, damage or calamity whatsoever. All of the foregoing shall be the sole responsibility



of the Promoter and the Town shall have no responsibility whatsoever for any action or inaction in relation to any such matters.

d. Name the Town of Haymarket as a co-insured on any liability insurance policy for any event named or approved under this contract.

4. Promoter's primary point of contact with the Town shall be the Town Manager or his designee and no other employee of the Town, except that any request for work by off duty Town Police Officers or any additional police activities shall be coordinated through the Chief of Police and the Town Manager or their designees as appropriate.

5. There shall be no relationship of joint venture, partnership or any other relationship between the Town and the Promoter. The Promoter understands that any thing done or not done by the Town in support of the event(s) is purely an accommodation, and the Town may refuse at any time to honor any request or accommodation by the Promoter. The Town may initiate termination of this Agreement immediately for cause or default by written notice. Upon such written notice of default, Promoter shall have 30 days to cure the cause of default to the full satisfaction of the Town, in which case termination will not occur.

6. By mutual written agreement, the term of this Contract may be extended beyond the agreed to two (2) year term.

7. "Haymarket Day" and like and similar usages are copyrighted and a registered trademark and the sole property of the Town. The Promoter shall only employ or



use such term or similar terms as may be expressly permitted by the Town. Any such use shall not confer or imply a license or permission for any other or future use or for the Promoter to acquire or have any interest whatsoever in such term or like terms.



WITNESS the signatures and seals on the following pages.



TOWN OF HAYMARKET

By: *Pamela E. Stutz*
Mayor

ATTEST:

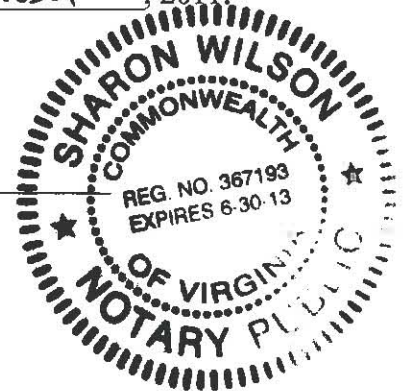
[Signature]
Clerk

STATE OF VIRGINIA
COUNTY OF PRINCE WILLIAM, to-wit:

The foregoing instrument was acknowledged before me by Pamela E. Stutz, Mayor of the Town of Haymarket, Virginia this 6th day of October, 2011.

My Commission Expires: 6-30-13

[Signature]
Notary Public



STATE OF VIRGINIA
COUNTY OF PRINCE WILLIAM, to-wit:

The foregoing instrument was acknowledged before me by Jennifer Preli, Town Clerk this 6th day of October, 2011.

My Commission Expires: 6-30-13

[Signature]
Notary Public



[Handwritten mark]

Approved as to form:

Peter Bennett

Town Attorney

STATE OF VIRGINIA
COUNTY OF CULPEPER, to-wit:

The foregoing instrument was acknowledged before me by John C. Bennett, Town Attorney this 6th day of October, 2011.

My Commission Expires: 6-30-13

[Signature]

Notary Public

ATTIVA CORPORATION, INC., dba
SPEND THE DAY IN HAYMARKET



By: [Signature] President (K/H)
President, said official being duly authorized therefore

STATE OF VIRGINIA
COUNTY OF PRINCE WILLIAM, to-wit:

The foregoing instrument was acknowledged before me by Gerry Kennedy, President of Attiva Corporation, Inc. dba Spend the Day in Haymarket this 4th day of November, 2011.

My Commission Expires: 6-30-13



[Signature]
Notary Public

[Signature]