



TOWN OF HAYMARKET TOWN COUNCIL

REGULAR MEETING ~ MINUTES ~

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

15000 Washington St
Haymarket, VA 20169

Monday, October 7, 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. Minutes Acceptance

A. Mayor & Council - Regular Meeting - Sep 3, 2013 7:00 PM

| | |
|------------------|--|
| RESULT: | ACCEPTED [UNANIMOUS] |
| MOVER: | Mary-Lou Scarbrough, Councilwoman |
| SECONDER: | Milt Kenworthy, Councilman |
| AYES: | Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias |

B. Mayor & Council - Special Meeting - Sep 16, 2013 7:00 PM

| | |
|------------------|--|
| RESULT: | ACCEPTED [UNANIMOUS] |
| MOVER: | Mary-Lou Scarbrough, Councilwoman |
| SECONDER: | Milt Kenworthy, Councilman |
| AYES: | Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias |

4. Citizen's Time

Susan Edwards - 6938 Little John Court

She has two concerns this evening. Her first concern is the stop Light here in the center of Town; it has been getting very dangerous. People are driving around into the bike lane to pass, its getting out of control and dangerous. She is asking for additional enforcement from the police department.

In light of events that have been made public in the newspaper, she asks that we bring back the code of conduct. It was brought up several years ago and people thought it was ridiculous, but obviously people need guidelines to stay within. It should be for council members and all board members. It is bringing embarrassment to the residents of this town and they deserve better.

Jack Kapp - 8010 Six Towers Road, Manassas, Virginia

He is here to speak against renewing the contract with ATTIVA for the Town events. For many years the day was co-sponsored by the Ruritans and the Town of Haymarket. The Ruritans donated all of their proceeds from the event to scholarships for deserving high school seniors. The Town used their proceeds for the street scape project, not to line the pockets of a private citizen. He understands that the Town pays for the police and they get paid \$500 by the company. He thinks this is a break even or a loss for the Town. He does not think under the present conditions that the Town should renew the contract.

Tony Giuffre - 6741 Jefferson Street

He is a proud resident of this town, he has been a member of the community for nearly 50 years, he even had a business in the Town for many days. The road was closed for the parade only. They used, with

permission, private property for the vendor booths and other activities for the day, they did not shut the street down for the entire day. They did not charge non-profits, this is his biggest object to the current contract. He learned the food pantry was charged last year to use the space in front of the building that they rent from the Town. We did not believe that non-profits such as towns should profit from other non-profit organizations. It was truly a community event, it is now a commercial event. The Town provided the police at no charge to the Ruritan Club and they never had any incidents. If the Council wants to have a private company run the event, there should be a 20% entertainment tax. Or the Town Council members could volunteer their time and coordinate the events themselves. Or at the very least put the contract out for bid.

Pam Swinford - 6852 Jockey Club Lane

She is here because of the articles that she has been reading about incidents that happened on Haymarket Day with a Town Council Member and a Planning Commission member who were arrested for bad behavior. She is here to say that this bad behavior is not a one time thing. She provides a letter regarding verbal abuse and physical posturing at her ARB meeting by Jay Tobias. At that time, she asked that if he attended another meeting, she would like security to be present because it was so out of control she had to shut him down. She was actually hit by a golf cart driven by Bob Weir and he never even stopped, it left a 3 inch bruise and a gash, it knocked her backwards. She brings up these instances because she has concern that since it happened in the past, it obviously hasn't stopped. She doesn't know the reason behind this behavior, but it is an embarrassment to the Town. If we want to be represented and be taken seriously, then we need to start taking our Town seriously. She has the letter that she wrote to Mayor Stutz at the time that documented the event at her ARB meeting [provides it to the Clerk]. She's not sure of the rights we have to have someone removed from a board position; certainly that would be her request. She just wants everyone in the Town to realize this was not a one time event. Also, she is aware that Mr. Tobias has a concealed weapons permit and that concerns her combined with his outbursts and drinking.

Charlie DeGraw - Manassas, Virginia

He is a former resident of Haymarket. He lived here in the 50's and in the 80's and back in 2009. He also had a business in the Town at one time and came under the attack of Bob Weir; he has some anger issues. The attacks were false, but didn't seem to stop him. He and his wife have considered moving his business back to Haymarket but recent events tell him that this is not the place he wants to be. We have Council people drunk and fighting on Haymarket Day. We have another member taping the Mayor's wife in a restaurant when the police had to be called. We want some peace. His advice is why don't we apologize to each other. He has some emails, that would turn your ears, from Council members; hate emails directed toward the Mayor, not over policy. They will be brought out at the right time. You should repent or resign.

Ralph Ring - 14920 Greenhill Crossing Drive

He is speaking as a citizen. There is a lot of anger in this room tonight and it is unfortunate but it is completely misdirected. It is uninformed. What is called the press, which is actually just a blog, is incorrect and unsubstantiated and has no editorial policy. Dan Roem's article has not yet come out and will present a different side. What is being engaged in tonight is public castigation not based on fact not based on the findings of a court. But it is based on greatly uninformed opinion and agitation and hostility. It is absolutely shameful, he is not talking about the reputed behavior of the Council he is talking about the citizens. Is there an issue, yes, but ignorance is the single most dangerous thing in politics and there is a staggering quantity of ignorance, we should be more informed. We should not be trying these cases in the court of public opinion we should be waiting until the court date happens. Then and only then is when you should ask for a dismissal.

Pam Stutz - 6720 Jefferson Street

She is here to address the council in a different manner. She is here to say what happened during Haymarket Day was disappointing, but she believes it goes beyond that. There have been so many incidents over the past several years that she thinks the council should turn to its charter. She thinks we need to read what the Charter says about the conduct of the Council. As far as what Mr. Ring commented about going to the courts, she thinks the court is a different matter. If there are council members that have a problem with alcohol, we need to reach out and help. Instead of pulling everyone apart, we need to be looking at helping one another. The comments against the Mayor over the past years is wrong, it needs to stop. You need to pull yourselves together. You can disagree with charity and

dignity and it should be done in private not in the public eye.

5. Agenda Items

A. Amend the Agenda

Move to amend the agenda by adding Code of Conduct as an agenda item

| | |
|------------------|--|
| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Mary-Lou Scarbrough, Councilwoman |
| SECONDER: | Steve Aitken, Councilman |
| AYES: | Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias |

B. H.E.A.L. Program - Brian Henshaw, Town Manager

Move to adopt Resolution #20131007-2

RESOLUTION #20131007-2

Becoming a HEAL Community

WHEREAS, the Town has the ability to affect the health and wellbeing of its residents; and

WHEREAS, through planning and design the Town can continue to encourage a built environment that promotes walking, biking, and other forms of physical activity that promotes healthy lifestyles; and

WHEREAS, obesity has taken a tremendous toll on the health and productivity of all Virginians; and

WHEREAS, supporting the health of residents and the local workforce would decrease chronic disease and health care costs and increase productivity; and

WHEREAS, it is within the Town's Comprehensive Plan to strive to be an active and walkable community through initiatives such as the Virginia Department of Transportation's "Complete Streets" effort;

WHEREAS, the Town sees merit in supporting initiatives that promotes healthier lifestyles while still being enjoy all of life's opportunities and acknowledge that a healthy lifestyle is a personal choice;

NOW, THEREFORE, LET IT BE RESOLVED that the Town of Haymarket hereby recognizes that obesity is a serious public health threat to the health and wellbeing of adults, children and families in **Haymarket**, and a commitment is needed to put healthy choices within reach for all residents. While individual lifestyle changes are necessary, individual effort alone is insufficient to combat obesity's rising tide. Significant societal and environmental changes are needed to support individual efforts to make healthier choices. To that end, the Town of Haymarket adopts this Healthy Eating Active Living resolution:

I. Built Environment

BE IT FURTHER RESOLVED that the Town of Haymarket elected officials, planner, engineer, community economic and redevelopment personnel responsible for the design and construction of parks, neighborhoods, streets, and business areas, should make every effort to:

- Prioritize capital improvements projects to increase the opportunities for physical activity;
- Plan and construct a built environment that encourages walking, biking and other forms of physical activity;
- Address walking and biking connectivity between residential neighborhoods and schools, parks, recreational resources, and retail through design and layout;

- Revise comprehensive plans and zoning ordinances to increase opportunities for physical activity wherever and whenever possible, including complete streets policies, compact, mixed-use and transit-oriented development;

II. Workplace Wellness

BE IT FURTHER RESOLVED that in order to promote wellness within Town of Haymarket, and to set an example for other businesses, **the Town of Haymarket** pledges to work on adopting and implementing a workplace wellness policy that will:

- Establish physical activity breaks for meetings over two hours in length;
- Continue to provide for a water resource and promote water consumption in the workplace and at meetings
- Explore the development of a fitness benefit providing opportunities for paid physical activity breaks during the work week for municipal employees, and/or reduced membership rates at local fitness centers

III. Healthy Food Access

BE IT FURTHER RESOLVED that **the Town of Haymarket** elected officials, staff, community economic personnel responsible for the design and of parks, neighborhoods, streets, and business areas, should make every effort to:

- Work with the local Farmers' Market to promote and expand its current operation for the benefit of the residents of the Town.
- Create a Memorandum of Understanding with the Farmers' Market to provide them a long term agreement for the location of the Farmers' Market to establish long term success.
- Work with local restaurants to promote healthier options to existing menus through a Healthy Restaurant Recognition Program, based upon current state nutrition standards.

IV. Implementation

BE IT FURTHER RESOLVED that the elected officials and staff should annually review the steps taken to implement the Resolution, discuss additional steps planned, and any desired actions that would need to be taken up by the town council.

BE IT FURTHER RESOLVED that Town of Haymarket staff shall work with HEAL Cities & Towns Campaign Staff to explore HEAL policies and to identify those policies that are suitable for the Town's unique local circumstances.

BE IT FURTHER RESOLVED that staff will report back to this Council with recommendations not later than the beginning of 2014 with ideas and concepts for implementing healthy initiatives in and around the Town.

| | |
|------------------|--|
| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Steve Aitken, Councilman |
| SECONDER: | Katherine Harnest, Councilwoman |
| AYES: | Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias |

C. Appropriations & Budget Amendment - Staff

Move to appropriate, pursuant to Policy #20100816 adopted by the Town Council on August 16, 2010, the following quarterly budget expenditures for fiscal year 2014:

Police & Public Safety: \$171,874; Administration: \$97,457; Public Works: \$49,401; Legislative & Advisory: \$13,004; Museum: \$8,745

| | |
|------------------|--|
| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Steve Aitken, Councilman |
| SECONDER: | Katherine Harnest, Councilwoman |
| AYES: | Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias |

Amend the FY 2014 Budget

Move that the FY 2014 budget be amended by reducing the 91000 Non-departmental - Street Scape Capital Reserve expenditure line item by \$25,000 from \$160,233.00 to \$135,233.00 and increase funding by \$25,000 to line item PUBLIC SAFETY: 4003130 - Building Official - Other Contractual Services.

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

D. ATTIVA Events Contract

This agenda item will be discussed in the closed session

E. Robinson's Paradise Rezoning - Marchant Schneider

Move that the Town Council adopt Resolution 20131007-1, Intent to Amend the Zoning Map of the Town of Haymarket:

RESOLUTION 20131007 - 1

RESOLUTION TO INITIATE AMENDMENTS TO THE ZONING MAP OF THE TOWN OF HAYMARKET, VIRGINIA (ROBINSON'S PARADISE)

WHEREAS certain zoning map amendments have been submitted by DJB Management, Inc. Profit Sharing Fund, 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 8.08 acres identified as GPINs 7298-91-6445, 7298-91-5551, 7298-91-4658, 7298-91-3864, 7298-91-2475, 7298-91-1779, 7298-91-0983, 7298-91-0286, 7298-81-9096, 7298-82-9505, 7298-92-0708, 7298-92-1502, 7298-91-2197, 7298-81-9576, 7298-91-0471, 7298-91-1267, 7298-81-8583 and Walter Robinson Lane, from Residential District R-1 to the Residential District R-2 (Small Lot Single Family Dwellings);

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: | Rebecca Bare, Councilwoman |
| SECONDER: | Katherine Harnest, Councilwoman |
| AYES: | Aitken, Bare, Harnest, Scarbrough, Kenworthy, Tobias |

F. Code of Conduct

Aitken asks that the Clerk forward a copy of the previously distributed code of ethics to all of Council for their review. Aitken feels we should have something on file that we can point to for accountability. The Town Attorney's experience is that this is done in many jurisdictions.

This matter will be discussed further at the next meeting after Council has had an opportunity to review.

Motion to Censure

Move to censure and fine Vice Mayor Tobias \$250 for his reprehensible behavior on September 21, 2013, to be paid on or before October 21, 2013

Discussion: *Tobias asks the Town Attorney for his opinion on the Council's ability to discipline, given light of the 1975 state code change when it comes to discipline of council and elected officials. The Town Attorney responds that both the Town Charter and VA 15.2-1400 allow the Council to fine a member for disorderly conduct. Disorderly conduct is not further defined in that statute and the power to discipline a member of council is an inherent legislative power, but the exact outer boundaries of that power are not clear.*

| | |
|------------------|---|
| RESULT: | ADOPTED [4 TO 3] |
| MOVER: | Steve Aitken, Councilman |
| SECONDER: | Katherine Harnest, Councilwoman |
| AYES: | Steve Aitken, Katherine Harnest, Mary-Lou Scarbrough, David Leake |
| NAYS: | Rebecca Bare, Milt Kenworthy, Jay Tobias |

Motion to Censure

Move to censure Mr. Weir for his reprehensible behavior on September 21, 2013

| | |
|------------------|---|
| RESULT: | ADOPTED [4 TO 3] |
| MOVER: | Steve Aitken, Councilman |
| SECONDER: | Mary-Lou Scarbrough, Councilwoman |
| AYES: | Steve Aitken, Katherine Harnest, Mary-Lou Scarbrough, David Leake |
| NAYS: | Rebecca Bare, Milt Kenworthy, Jay Tobias |

6. Department Reports

A. Museum Report - Denise Hall

B. Engineer's Report - Holly Montague

C. Town Manager's Report - Brian Henshaw

**The Town Manager requests that Election date changes and Council term limit extensions be added to work session agenda

D. Planner's Report - Marchant Schneider

E. Building Official's Report Dan Lyons, Soil Consultants, Inc.

F. Police Report - Chief James Roop

G. Treasurer's Report - Staff

7. Closed Session

A. Enter into closed session

Motion to enter into closed session pursuant to 2.2-3711 A:

7. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. **ATTIVA Events Contract**, and;

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body, specifically the **ATTIVA Events Contract**

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

B. Certification of the closed session

Move to certify that 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.

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

8. Councilmember Time

- A. Steve Aitken
- B. Rebecca Bare
- C. Katherine Harnest

For the record in regards to all the press and everything everyone has been reading, its a shame that it had come to that. She all understands we go out and have a good time, we've all been there and done that, but in regards to acting how it was portrayed in the press and on a day when everyone knows who we are and that we are held at a higher standard and we are not above the law. We have chosen and sworn to protect the citizens of this Town. She feels certain members do owe this Town an apology for their behavior. If you cannot stand up for the town you need to stand down from it.

- D. Mary Lou Scarbrough

In her 23 years living here and being on all of the boards in the Town, it was a very embarrassing day for us as fellow Council Members and for the residents of the Town. She agrees with Councilwoman Harnest that an apology is necessary and if you can't do your job, then resign.

- E. Milt Kenworthy

Since his name was mentioned this evening he is looking for an apology from the Mayor and his family for the accusations that were untruthful and never materialized. The Mayor responds that it is Kenworthy who should apologize to his wife [Mrs. Leake].

A disagreement between the two gentlemen continued. Tobias asked that the two excuse themselves to a private area to discuss this matter. Tobias then excuses himself from the meeting.

- F. James Tobias
- G. David Leake

The Mayor announces that he and the Town Manager attended the Town Association of Northern Virginia meeting at the Salamander Resort in Middleburg.

He also met with a cardiologist group who would like to hold a health fair in the Town. In that health fair they will open it up to other medical organizations. Mr. Landry has offered PACE to host this affair. The fair will offer free screenings and a public awareness of heart disease. He has offered to do screening for all Town employees and possibly board members.

***The Mayor asks that pay raises for employees be added to the November agenda, in light of increased meal's tax revenue.*

9. Motion to Adjourn

| | |
|------------------|--|
| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Mary-Lou Scarbrough, Councilwoman |
| SECONDER: | Milt Kenworthy, Councilman |
| AYES: | Aitken, Bare, Harnest, Scarbrough, Kenworthy |
| EXCUSED: | Jay Tobias |

Submitted:

Approved:

Jennifer Preli, Town Clerk

David Leake, Mayor