

Haymarket Town Council Meeting
Monday, February 07, 2011
Mayor Pamela E. Stutz

Meeting called to order at 7:00 p.m.

Pledge of Allegiance

Mayor Stutz recognizes Scout Tristan Hamrick and asks that he lead the pledge of allegiance. Tristan is with Troop #924

Roll Call

Tobias, Cole, Stutz, Scarbrough, Kenworthy, Weir, Brinson-Absent

Masonic Lodge #313

The Lodge is here tonight to receive recognition from the Town for the donation to the police department of the DUI goggles. The Chief and Mayor present a plaque to Mr. Swanberg.

Citizen's Time

- Kim Kennedy Ingalls reads aloud a letter from Gerry Kennedy (attached to minutes)
- **Scott Plein**
Comprehensive Plan Amendment for Villages of Piedmont II. He is requesting the Town Council's support and hopes that the Town can provide a letter or appear in person for the initiation of the comprehensive plan amendment (CPA) application at Prince William County

Weir moves to amend the agenda to add discussion of the Comprehensive Plan Amendment (PWC) for Villages of Piedmont II, Tobias seconds;

Ayes: 5

Nays: 0

Absent: Brinson

Minutes

Tobias motions to approve the minutes of January 11, 2011, Scarbrough seconds;

Ayes: 5

Nays: 0

Absent: Brinson

Tobias motions to approve the minutes of January 24, 2011, Scarbrough seconds;

Ayes: 5

Nays: 0

Absent: Brinson

Officer Warren Houde & Courtney Clay

F.A.L.L. Friends Against Losing Lives

He provides a brief description of what F.A.L.L. is and its mission

Mayor recommends that Ms. Clay provide information for our newsletter. Their web site is www.friendsagainst.org

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Business Licenses

We have one application for MDS Icesports as a retailer in a trailer outside the hockey rink (pro shop). The Planning Commission did recommend denial of the application, since it is not an allowable use in the I1 (retail).

Tobias motions to approve the business license for MDS Icesports to be located at 15155 Washington Street (Haymarket Ice Rink) to expire May 1, 2011. This approval is contingent upon an approval by the building official as it pertains to electricity and safety and occupancy, Weir seconds;

Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent

Masonic Lodge

100th Anniversary Celebration Proclamation

John Cole reads aloud the proclamation (attached) acknowledging the Hay Market Masonic Lodge's 100th Anniversary celebration, Scarbrough seconds;

Ayes: 5

Nays: 0

Absent: Brinson

Building Official's Report

None provided

Police Report

The Chief would like to get \$2,500 appropriated for some immediate needs at the Police Department building (repairs & renovations).

**Cole motions to appropriate an amount not to exceed \$10,000 for building repairs and renovations at 14710 Washington Street, police department building. Funds to come from the budget line item Town Center Property Improvements
Scarbrough seconds;**

Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent

Alexandra's Keep

Tobias motions to forward the elevation changes for the Alexandra's Keep Subdivision to the ARB for their re-review and consideration, Weir seconds;

Ayes: 5

Nays: 0

Absent: Brinson

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Piedmont Tire & Auto Site Plan

Weir motions that the Town Council approve the Piedmont Tire & Auto Final Site Plan, prepared by Christopher Consultants and dated April 2010, revised through January 11, 2011, signed and sealed January 31, 2011, for a service station without fuel sales with repair under roof at 15151 Washington Street, subject to the following conditions:

- 1. All exterior lighting shall conform to the requirements of Section 58-719 of the Zoning Ordinance;**
- 2. Maintenance of street lighting along the property's frontage to Washington Street shall be the responsibility of the Town and shall be controlled by a photocell or similar device. Electric service to the same street lighting along Washington Street shall be the responsibility of the property owner;**
- 3. Recordation of all necessary easements, maintenance agreements and other documents as required and approved by the Town Attorney prior to the issuance of any permits, but in any event within six months of the date hereof;**

Cole seconds

Roll Call Vote: Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent

Comp Plan Amendment

Scott Plein asks the Town Council for their support for the initiation of his comprehensive plan amendment with Prince William County. Mr. Weir states that he will be attending the meeting and will speak to the board about the Town's position on the application.

Winterham Development

Mr. Bloom, owner of Winterham, is here to ask that the "not yet built building #2" at Winterham be all residential. The reason is that there is not a huge demand for retail, but he has a waiting list of 8 people for apartments. The bank will approve the construction money for the residential but not for retail. He plans over a period of time to fill it back up with ground floor retail.

Weir talks about the zoning restrictions. Weir can't support a plan with no end game. Residential is limited to 40% in the B-1.

Tobias talks about outstanding bond items. He is surprised that Mr. Bloom would ask for favors when the punch out items have not yet been completed.

Winterham Bonds

**Tobias motions to hereby call the bonds unless Mr. Bloom can purge the site of the violations on or before April 15, 2011, # in so far as they relate to identified items on the site, and on the inspection report of 12/06/2010 from Prince William Soil & Water Conservation District, Weir seconds;
Tobias-yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes**

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Bloom Building Bonds

Weir motions to instruct the Town Manager to send a letter to Morgan Stanley requesting an as-built site plan for the Bloom building located at 15125 Washington Street, Scarbrough seconds;

**Ayes: 5
Nays: 0
Absent: Brinson**

Treasurer's Report

**Treasurer will be sending out a list of controllable expenditures. There will be items that require approval pre-purchase. Tobias reminds that last year this became a disaster.

**Budget sessions will begin soon

**March meeting will be a pre-budget presentation from the Treasurer & Town Manager; we will schedule a work-session.

Weir asks about the Fire funds, have we received this year's grant? Yes we have.

**Please provide Weir a dollar amount that has been transferred to the fire department, just a simple spreadsheet for funds dispersed over the last five years.

Tobias would like to bid out our vended services, just as we did with the auditors. Legal services, treasurer, and building official.

Weir notes that we may not have a choice after July on the requirement to procure the Town's vended services, per the changes to the public procurement act and it has already cleared the house floor, although the trigger is 3,500 in population. A boundary adjustment or annexation would put the Town over that number.

**Tobias would also like to get the salary and benefits comparison back on the table.

Town Manager's Report

- Fence at Daytime Playtime needs repair immediately. To completely re-do is approximately \$2,500. He suggests the Town Center Property line item \$2,500.

**Cole motions to appropriate an amount not to exceed \$2,500 for the repair/replacement of the fence located at 15026 Washington Street (school). Funds to come from the Town Center Property line item, Tobias seconds;
Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent**

- As a result of the business community discussions, we have advertisements running in the Washington Post; however the businesses overwhelming want more events. It is already a huge burden on staff. Mr. Kennedy has an organization called *Spend the Day in Haymarket*. He is proposing to take over the management of all events. He is looking at annual sponsorships instead of a per event sponsorship. He will be coming to the March meeting with a specific proposal.
- Weir asks about status of renovations here in this building. He needs access to all files, etc...If there. He needs to know if there is a security risk. He also needs a work space. Mayor responds that it was discussed without her presence.

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Tobias asks why the council can't share the Mayor's office?

**The Mayor will work the Town Manager to insure that Tobias and Weir have secure space for storage and access to that.

Virginia Retirement System

Tobias prefaces by saying he was at some of the FY-2011 budget meetings, not all. VRS was a topic of discussion at those meetings. He recommends that we give a 5% supplemental from the June 30, 2010 wages, then bumped back up.

Mayor says it was her impression that we were going to give raises based on anniversary dates back during the FY-2011 budget work-sessions. Yes VRS was discussed, but that we would give the bump ups when a decision was made on VRS. Tobias isn't finding where the Council actually authorized raises.

Treasurer reminds that this is a supplemental benefit, not to be mixed with wages.

The town manager states that we have a strong group of employees here and he would hate to take anything away from them at this point and recommends that the 5% increase come from today's wages rather than the June 20, 2010 wages.

**The Town Attorney recommends a new motion that will supersede last month's motion, strike the old.

Weir motions to strike Resolutions 20110124-2A and 20110124-2B, both adopted on January 24, 2011 on the specific basis that the resolutions were based on flawed information provided by the Virginia Retirement System, all of which is specific to the facts and circumstances of those resolutions, Tobias seconds;

The Town Attorney would like the record to reflect that allowing the striking of a previous motion is a highly unusual circumstance and does not constitute precedence.

Tobias would like the following on the record:

This motion does in fact set precedence for future actions taken by Council. If, in the future, Council should be made aware that they acted based upon improper, incorrect, or otherwise flawed information, it is incumbent upon them to take appropriate actions to protect the Town's interests in all matters. Accordingly, by taking this action, Council sets a standard that they should adhere to, in the future matters of Town business.

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

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Tobias motions to adopt Resolution 201190207-1A (attached) with regard to VRS participation, Weir seconds;

Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent

Tobias motions to adopt 20110207-1B, effective retroactive to February 1, 2011. The Town will provide a supplement for the purpose of the employee maintaining their current salary with regard to participation in the Virginia Retirement System, monies will come from the 3.5% Reserve line item, Weir seconds;

****Treasurer is telling us that we can increase employee's salary by 5% across the board is a pay raise this is to negate a negative effect on the employee's paycheck.**

The Town Attorney reminds that one council cannot bind another council, the VRS is saying this has to be honored for all Plan 1 employees, there is substantial question whether this is enforceable;

Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent

Utterback House

Tobias asked that this item be on the agenda tonight. He comments that the reason he wanted to discuss this matter again was not to bring anything to a vote, but to get a position from each council member. He would like to know where each member stands at the end of the April 2011 meeting. Will we proceed on April 7, what will we do? Are we going to decide to demolish the building or renovate or let it sit?

Cole

The ARB information will be a piece of information, Sterling's work will be a piece of information on the potential for that building. If all comes back negative, he would be open to demolition. He will commit to another step at that meeting. Cole is amendable to putting funds into the building. We have spent a terrible amount of time tonight [VRS] on decisions that were made in haste he wants to avoid that on the Utterback house.

Scarbrough

She would like to save the building if it is salvageable. We need the historic structures in the Town. She is amenable to discussing spending funds so as not to lose the building.

Kenworthy

He is interested in the expenses. If we can't come to a conclusion he will opt for demo.

Weir

We have all the studies we need, he does not care what DHR says about it, he thinks it needs to come down as soon as possible.

Stutz

Regardless of what comes back from the Preliminary Information Study (PIF), it is the ARB's decision and the council should honor that. Stutz asks Tobias the same question he is asking Council.

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Tobias

He does not want this council on April 7 to delay rehabilitation if information comes back that it is potentially historic. He will support demolition if there is no potential historic value in the building.

Weir

Asks that future agendas have line items for closed session , old business and they should come directly after the minutes.

Weir moves to amend the agenda to include a discussion of boundary line adjustments for tomorrow's work-session, Cole seconds;

Ayes: 5

Nays: 0

Absent: Brinson

Weir moves to continue the meeting to Tuesday, February 8, 2011, Tobias seconds;

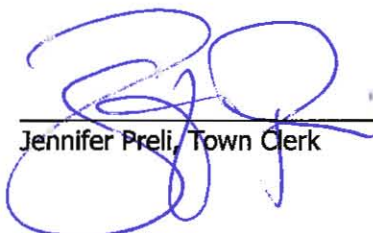
Ayes: 5

Nays: 0

Absent: Brinson

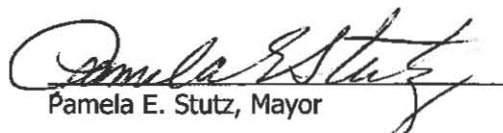
**Tobias would like the Town Manager to have ideas from the IT folks and the security folks and Comcast for streaming the meetings.

Submitted:



Jennifer Preli, Town Clerk

Approved:



Pamela E. Stutz, Mayor

RESOLUTION 20110207-1A

**Authorization to Pick-up the Employee's Contribution to VRS
Under § 414(h) of the Internal Revenue Code For Plan 2 Employees**

WHEREAS, the Virginia General Assembly, in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2 Employees"). The legislation stipulates that Plan 2 Employees will pay their 5 percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h) on a pre-tax basis; and

WHEREAS, the legislation allows certain employers, including the Town of Haymarket to pick-up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary; and

WHEREAS, the election to pick-up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary shall, once made, remain in effect for the applicable fiscal year (July 1 - June 30) and shall continue in effect beyond the end of such fiscal year absent a subsequent resolution changing the way the 5 percent member contribution is paid; and

WHEREAS, employee contributions that are picked-up as an additional benefit not paid as salary are not considered wages for purposes of VA Code § 51.1-700 et seq. nor shall they be considered salary for purposes of VA Code § 51.1-100 et seq.; and

WHEREAS, the Town of Haymarket desires to pick-up and pay its Plan 2 Employees' member contributions to VRS as an additional benefit not paid as salary in an amount equal to (5%) of creditable compensation; and

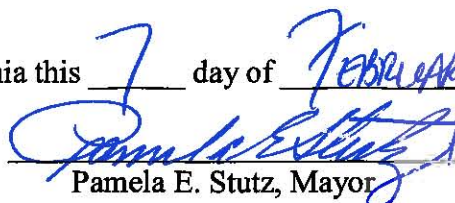
WHEREAS, VRS tracks such picked-up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS.

NOW, THEREFORE, IT IS HEREBY RESOLVED that effective the first day of January 2011 the Town of Haymarket shall pick-up member contributions of its Plan 2 Employees to VRS as an additional benefit not paid as salary in an amount equal to (5%) of creditable compensation subject to the terms and conditions described above; and it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the Town of Haymarket in lieu of member contributions; and it is further

RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the picked-up contributions made by the Town of Haymarket directly instead of having them paid to VRS.

Adopted in Haymarket, Virginia this 7 day of February, 2011.


Pamela E. Stutz, Mayor

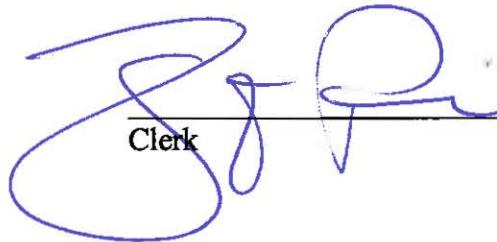
RESOLUTION 20110207-1B

Be it hereby resolved that the Town of Haymarket, Virginia, a political subdivision of the Commonwealth of Virginia, acting by and through the Town Council, does hereby elect to have those of its employees who are regularly employed full time on a salary basis and whose tenure is not restricted as to temporary or provisional appointment to become eligible to participate in the Virginia Retirement System, effective January 1, 2011, as set out in Title 51.1, Chapter 1, Section 51.1-100 through Section 51.1-168 of the Code of Virginia, as such Code has been or may be amended from time to time. The Town agrees to pay the required employer cost for participation of its employees in the Retirement System for zero years of service for the Town prior to the effective date, for which credit is authorized and established on forms prescribed by the Retirement System, and for membership service in the System after such date, and also to deduct from the employees' wages the amounts required by law.

Now, therefore, Gene Swearingen, Town Manager, and Jennifer Preli, Clerk, are hereby authorized and directed in the name of the Town to execute any required contract in order that said employees of the Town may become eligible to participate in the Virginia Retirement System as provided in the aforementioned sections of the Code of Virginia. In execution of any contract which may be required the seal of the Town shall be affixed and attested by the Clerk and said officers of the Town are hereby authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the Town and its employees for this purpose.

CERTIFICATE

I, Jennifer Preli, Clerk of the Council of the Town of Haymarket, certify that the foregoing is a true and correct copy of the resolution passed at a lawfully organized meeting of the Council held at Haymarket, Virginia, at 7 o'clock p.m. on 2/7/11 (date). Given under my hand and seal of the Town this 7 day of February, 20 11.


Clerk

The Virginia General Assembly, in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2" employees). The legislation amended VA Code § 51.1-144 to provide that Plan 2 employees will pay their 5 percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h). Internal Revenue Code § 414 (h) provides that a governmental employer may "pick-up" mandatory employee contributions and thereby cause the contributions to be made on a pre-tax basis. The formal written action required by Internal Revenue Code § 414 (h) to effect the pick-up has been taken by the General Assembly with the Governor's signature.

The legislation also permits each county, city, town, local public school board or other local employer to pick-up, in whole or in part (in 1 percent increments), the 5 percent member contribution as an additional benefit not paid as salary. The employer's optional payment of the 5 percent member contribution may be phased in over a period approved by the VRS Board not to exceed 6 years and may only be made on a uniform basis for all its Plan 2 employees. The formal written action required by Internal Revenue Code § 414 (h) to effect the pick-up using the alternatives permitted by the legislation must be taken by the governing body of the specific employing entity and must be effective only on a prospective basis.

As a new employer joining VRS after July 1, 2010 I certify that the treatment of member contributions will be the same for all employees who are in VRS Plan 2 and any future new hires who, by virtue of not having taken a refund of their member contributions in VRS, and who remain in VRS Plan 1. The treatment of the member contributions is as follows:

Please indicate, by selecting one option below, how member contributions will be paid:

- This is to acknowledge that the Town of Haymarket will have the employees pay the 5 percent member contribution according to the terms of the legislation. This action does not require action by your governing body. *James W. Estep* (Authorized Signature) *Feb 7, 2011* (Date)
- This is to acknowledge that the Town of Haymarket elects to pick-up some or all of the 5 percent member contributions as detailed in the following duly approved resolution.

Employee's 5% Pretax Contribution

Town of Haymarket

Employer

Employer Code

Please select the appropriate option for each plan.

Plan 1 Selection

_____ The employer named above wishes to pick up and pay the 5% employee's contribution with an effective date of _____. The decision to pay member contributions to the VRS on behalf of your employees is an irrevocable decision.

The employer named above wishes to reduce the employee's salary on a Pre-tax basis and pick-up the employee's contribution to be remitted to VRS.

Plan 2 Selection

_____ The employer named above wishes to pick up and pay the 5% employee's contribution with an effective date of _____. The decision to pay member contributions to the VRS on behalf of your employees is revocable.

The employer named above wishes to reduce the employee's salary on a pretax basis and pick-up the employee's contribution to be remitted to VRS.



Pamela E. Stutz



Date



Title

* This document should accompany a properly completed and signed original
"Authorization to Pick up the Employee's Contribution to VRS
Under § 414(h) of the Internal Revenue Code"
resolution that is provided by VRS for the purpose of resolving this election.

Kennedy Haymarket Walking Town Development Group, LLC
P.O. Box 546
6611 Jefferson Street, Suite 304
Haymarket, VA 20168
703-754-3900
703-753-7001 fax

February 7, 2011

Mayor Pamela Stutz & Town Council
15000 Washington St.
Haymarket, Va. 20169

Re: Utterback House; Request for Deferral of Demolition Consideration

Mayor and Town Council:

I am writing this letter to request deferral of your consideration of the Utterback House demolition until the March, 2011 meeting. I have considerable information to offer with regard to the structure, but am unable to attend tonight's meeting.

As you may recall, the property on which the Utterback House sits has an approved Site Plan which calls for its footprint as the structure was originally built in the late 1800's. The structure itself has been evaluated by professional architects, civil engineers, structural engineers and construction contractors. Its bones are good. It has also been assessed from a mechanical, electrical and plumbing prospective, and has been evaluated for Hazardous Material content. With the exception of select Tenant Improvements, the structure has been completely assessed, and architected and engineered for structural soundness, code upgrade, and state-of-the-art restoration.

It is my view that, with volunteer effort for non-skilled work (cleaning, interior painting etc.), the building can be completely restored to full functionality, and be fully code compliant for any B-1 use for under \$150,000.00. I have provided this information to Town Council Member(s) in connection with discussions of renovation of the building for potential 'Boys & Girls Club' usage; I would be pleased to further investigate this matter and provide additional information as required to facilitate such good use of the property and restoration as an economically productive Haymarket structure.

I have led in excess of \$6,000,000 capital investment into Haymarket, and have some level of management expertise both in the areas of wooden structure demolition and restoration. The Red House Ordinary Restoration Project bears successful witness to management of both disciplines.

I am respectfully requesting that you defer consideration of demolition of this property until the March, 2011 Town Council Meeting, when a full plate of pertinent information can be provided for your consideration.

Thank you for your consideration in this matter.

Best regards,

Gerry Kennedy