

Monday, January 11, 2010

Regular Meeting

7:30 p.m. – Call to order and welcome to visitors

7:30 p.m. – Invocation

I. Adoption of the Consent Agenda

- a. Agenda dated January 11, 2010
- b. Minutes of the December 14, 2009 Regular Council Meeting
- c. Minutes of the December 22, 2009 Special Call Meeting

All matters listed under consent agenda are considered routine by the council and will be approved or received by one motion in the form listed. Items may be removed from the consent agenda for discussion under the regular agenda upon motion of any council member and duly seconded.

II. Public Comments

III. Mayor's Comments

IV. Appearances/Presentations

V. Unfinished Business

1. Consideration to implement a "Student of the Month" program
This item was tabled at the December 14, 2009 regular meeting by consensus to the January 11, 2010 regular meeting, pending more information.

VI. New Business

1. Consideration to adopt the 2010 Appomattox Town Council Meeting Schedule
The schedule includes two meetings with the Appomattox County Board of Supervisors. The meetings are scheduled for February 23, 2010 and August 24, 2010 at 6:00 p.m. prior to the workshop meetings.
2. Discussion and possible consideration to adopt a Resolution to Support Continued State Aid to Localities with Police Departments (599 Program Funds).

VII. Appointments to Boards, Commissions and Committees

VIII. Pending Matters

IX. Council Concerns

X. Adjournment

1 | Regular Council Meeting
Monday, December 14, 2009

The Appomattox Town Council held a regular council meeting on Monday, December 14, 2009, at 6:30 pm at the Appomattox Municipal Building, 210 Linden Street, Appomattox, Virginia with Mayor Harvey presiding.

Members present: Bryan J. Baine, N.H. "Jimmy" Mayberry, C. Lewis McDearmon, John T. "Plicky" Williams, Jennifer Jamerson-Scruggs. Absent: Karl E. Carter.

Others: Chad Millner, Nina Beasley, Mary Lou Spiggle, Bryan David, Gary Christie, June Goodrich, Bill Goodrich, Hazel Thomas, Sam Carter, Cliff Harvey, Frank A. Wright, Jr., Town Attorney, Bart S. Van Nieuwenhuise, Town Manager and Roxanne W. Paulette, Town Clerk.

On a motion by Councilmember Mayberry, seconded by Councilmember Williams, Council voted to convene in Closed Session pursuant to §2.2-3711 (A) 7 of the Code of Virginia, 1950, as amended, for the purpose of consultation with legal counsel retained by the Town regarding specific legal advice by such counsel, the subject matter of such meeting being the legal options available to the Town to address unapproved changes to the Wal-Mart building design.

Vote: Baine – aye, Mayberry – aye, McDearmon – aye, Williams – aye, Jamerson-Scruggs – aye. Carter – absent. Motion carried 5-0.

Now, therefore, be it resolved, that the Appomattox Town Council hereby certifies that to the best of each members knowledge: (1) Only public business matters lawfully exempted from open meetings requirements by Virginia law were discussed in the closed meeting to which this certificate resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by this council.

Vote: Baine – aye, Mayberry – aye, McDearmon – aye, Williams – aye, Jamerson-Scruggs – aye. Carter – absent.

Mayor Harvey called the meeting to order and welcomed the guests.

Rev. Carlton Duck gave the invocation.

Public Comments – none

Mayor's Comments – Mayor Harvey thanked the Community of Candles committee for a successful event on Sunday, December 6, 2009. The parade was wonderful. Thank you to June Chenault, Shirley Wheeler and the Appomattox Assembly. He also thanked the Town Staff for the decorations at the Town Office that took second place in the Municipal Building decoration contest. Mayor Harvey recognized the Appomattox Raider Football team on their success this year. Best Wishes and a continued recovery for Mr. Karl Carter after his recent surgery. Mayor Harvey wished everyone Season's Greetings and a bountiful New Year from the Appomattox Town Council and Staff.

On a motion by Councilmember McDearmon, seconded by Councilmember Williams, Council voted to adopt the consent agenda of December 14, 2009 with the removal of Appearance #1 – G. Mike Damron. All members present voting aye. Motion carried.

Gary Christie, Executive Director, Local Government Council gave council an update on the continued work of the Region 2000 Local Government Council. He provided a brochure that explained all six (6) departments within their offices at the Bank of the James building. Mr. Christie explained how localities pay dues to the Local Government Council and the opportunities provided to localities. One project of note is a federally funded Economic Development Administration. It will take about 12 months to develop. Once approved Region 2000 will be eligible for federal grants that we are not eligible for today.

Bryan David, Executive Director, Economic Development Council thanked council for the opportunity to speak to tonight. Mr. David is excited to be working with the best leadership in the Region. Mr. David worked on a scope with Fletcher Mangum to create “The Contribution That Virginia’s Region 2000 Partnership Makes to Region 2000’s Economy”. The region is going through some changes by creating high value and high paying jobs. Despite the economic downturn there are some growth trends. A lot of the job growth is created by small business. Those folks are here now. We need to help create entrepreneurship. We will be working with our Technology Council who is working with Middle Schoolers to create the STEM initiative and as time goes on it will be successful. The telecommunications infrastructure is crucial and we have the ability to provide broadband service at the end of the day.

Bryan Baine worked with Kelly Hitchcock on the Safe Routes to School Program and Long Range Bicycling Plan. Mr. Baine thanked Region 2000 for the assistance and looks forward to a continued partnership.

Jennifer Jamerson-Scruggs asked when the Economic Strategy would be complete. Mr. David responded within 12 to 14 months maybe even 18 months.

Unfinished Business – none

New Business –

Councilmember Jamerson-Scruggs presented a concept of “Student of the Month” program. Council could allow the school administration to choose a student that displays leadership skills and their level of responsibility. A plaque would be presented by the Town Council to the student chosen. Councilmember Jamerson-Scruggs said she thought it was a good program. Mr. Mayberry wanted to know which school would be targeted and if more information would be forthcoming. Ms. Jamerson-Scruggs suggested middle school age and gave guidelines of cost of roughly \$270 a year. Mr. Baine thinks it is a great idea and there is nothing negative about the program. Mr. Mayberry suggested that maybe a business should sponsor the program. The Town could possibly be hit with future requests. Mr. Williams raised concern that the school system is county run and that the school board runs the school system. The town does not have say but we can have a sense of support and I would feel better if the school board rubber stamped it or if we went in together with them. Mr. Mayberry said that maybe the school board isn’t even aware that a program even exists like this. Ms. Jamerson-Scruggs stated it is irrelevant who

implements the program as long as the students are recognized. The item will be tabled until the regular meeting in January 2010 pending more research.

Councilmember Baine suggested meeting twice a year with the Appomattox County Board of Supervisors in 2010. The item was suggested in 2009 but meetings did not materialize. Mr. Baine suggested offering the two meetings again. Town Council members gave consensus to the suggestion. Mr. Van Nieuwenhuise was asked by Council to talk with Mrs. Ferguson regarding 2010 dates for the meeting.

On a motion by Councilmember McDearmon, seconded by Councilmember Williams, Council voted to recommend William Coupe to the Circuit Court Judge as the Town's representative on the joint Board of Zoning Appeals with a term expiring December 31, 2013. All members present voting aye. Motion carried.

Pending Matters –

Council gave consensus that the December 29, 2009 Council Workshop meeting could be decided by staff predicated on agenda material.

Council Concerns –

Councilmember Jamerson-Scruggs:

I want to make a few comments and references to Mike Damron's letter that was submitted to Mayor Harvey and is a part of our agenda package. I am sorry that he couldn't be here tonight, I was certainly looking forward to some healthy debate back and forth and questions answered. However, back in 2006, most of you know, when I was newly elected on Town Council, I didn't know a lot about the water situation or the waterline controversy nor did I campaign on it either way. What I said is that I would certainly research both sides and then form my decision and part of that I did by setting an appointment with Mr. Damon with CCUSA and I asked Mr. Garrett, Town Manager (at that time) to go with me and we went over some things. We went over the Black & Veatch engineering study and rate methodology and at that time there were a few areas of the rate methodology that concerned me. Now, back in October 2009, I presented some things to this council and for whatever reason I don't know if I was in a position of authority if I would have addressed a news article because third party information sometimes can be misstated or misunderstood. However I would like to address the first part of that letter tonight.

(reading from the email in the agenda package)

Paul,

This e-mail is in regard to the statements I read in the Appomattox Times-Virginian dated October 21, 2009. The statements were credited to Jennifer Scruggs. I am not sure how accurate the article is and maybe some things were taken out of context but what I wanted to clarify is the rate history with the Town of Altavista and the rate structure process.

I have attached a spreadsheet with 7 years of data that outlines the rate history with the Town of Altavista. In the above referenced newspaper article, the following statements were made that I disagree with:

“Based on the rate methodology from Black and Veatch water study, the rates went up from 88 cents per 1000 gallons in 2004 to \$1.02 per 1000 gallons in 2006.” What I want to clarify is that during this 3 year period, the water rates did increase substantially due to the reduction of water usage system wide. The more water that is used system wide, the cheaper the unit cost i.e. the cost per gallon decreases.

Jamerson-Scruggs:

Now I understand that in theory but if you flip back and this what I want to point out to this council and you look at his seven year articulated information from Altavista and you look at that three year period in 2004 now he is using in his methodology based on 100 cubic feet. Typically, what we (Town of Appomattox) look at is per 1000 gallons. I also went back to the invoices we had from the Town of Altavista and I looked at the per 1000 gallon rates and the 100 cubic feet rates. In that, the 100 cubic feet was \$0.73, the 1000 gallon is \$0.96 and that is referenced from the Hurt & Proffitt package from January 28, 2006, those invoices. Now, if you go from 2004 to 2006 the per 1000 gallon rate is \$1.12. In that three year period, their rate for that three year period went up 16.67%. This is the point I was trying to drive home in October 2009. Now lets go down to the actual usage Mr. Damron has on his chart in 2004 of 550,196,000 gallons and look at 2006 – 599,132,000 gallons in that three year period Altavista increased their usage by 48,936,000 gallons and their rates went up 16.67% and that is just in a three year time period.

So, when Mr. Damron in his letter references that the reduction of water usage system wide and my question would be where is the reduction in the system overall with the Town of Altavista being their largest water customer and they increased by almost 50,000,000 gallons in a three year period. And now that the Town of Altavista is not with buying their water from Campbell County Utility Service Authority, Campbell County Utility Service Authority is now engaged in a contract buying water from the Town of Altavista, how is that going to affect the overall usage of Campbell County Utility Service Authority’s system – it reduces the usage, it reduces it. So, that’s the first thing I would like to address and that’s from Campbell County Utility Service Authority numbers given us.

The next paragraph and that will be the last thing I address tonight. I have asked the clerk to record the minutes verbatim so it would be a matter of record in the agenda.

(reading from the email in the agenda package)

“A year and half ago on the same gallon usage, Campbell County was able to lower its cost by 3.8 percent. However, an increase in a year and a half their water rate increased by 10 percent.” As the attached chart shows, actual expenses have increased each year since 2002. I am not sure where a cost reduction 3.8 percent came from.

Jamerson-Scruggs:

Now he's (Mr. Damron) referencing the article from the paper dated October 21, 2009 of my comments in this council.

(reading from the email in the agenda package)

In FY07, the provisional rate and audited rate were the same but expenses did increase. I would like to point out too that the Town of Altavista's usage went up each and every year except for a reduction in FY04.

Jamerson-Scruggs:

Well the misconception there is that I was not talking about Altavista's rates, and I was very specific in that meeting, I actually dispersed handouts. I was talking about the rate methodology for Appomattox water users and I have copies here and in that from the 2006 – Dec 12, 2007 Campbell County Utility Service Authority decreased their expenses by 3.8% and they increased water rates by 10% and that's factual, that's here, on what they have dispersed. That's what I presented and what I would like to clarify that there in the letter.

Mayor Harvey:

I am not sure why you are needing to defend this position and I understand that. There seems to be something you are leaving out. Campbell County Utility Service Authority originally had an agreement with Altavista that their rate would be cost plus 10%. They (CCUSA) switched over to the Black & Veatch methodology and obviously that cost went up because that methodology is considerably more expensive. I can't defend this position from him. Campbell County Utility Service Authority wasn't meeting their cost with the cost plus 10%.

Jamerson-Scruggs:

I would concede that the methodology changed but lets not make reference that we are talking about the statement here that the water rates and how its been proven here is its not going to matter how much water we use our rates are going to be indicative here of their system wide usage and ability to maintain cost and I don't care what methodology you use and it shows it here. And this is in their information.

Mayor Harvey:

I am not sure why we are discussing this here. I think it's a little unfair for us to put this information out without him being able to respond to it.

Jamerson-Scruggs:

I think it's a little unfair for Mr. Damron to respond to the Mayor in an email that a Council member made statements in a newspaper that was reported inaccurately if that's what Mr. Damron gets from it and it be a matter of public record and then I don't have the ability to respond and I feel as though I am justified in bringing it up tonight.

There were no other concerns by council.

6 | Regular Council Meeting
Monday, December 14, 2009

On a motion by Councilmember McDearmon, seconded by Councilmember Jamerson-Scruggs, Council voted to adjourn at 8:20 p.m. All members present voting aye. Motion carried.

Roxanne W. Paulette
Clerk

Paul D. Harvey
Mayor

At the Special Call Meeting of the Appomattox Town Council held on December 22, 2009 at 5:00 pm in the Council Chambers, Appomattox Municipal Building, 210 Linden Street, Appomattox, Virginia, there present were Mayor Paul D. Harvey, presiding and Council members Bryan J. Baine, N. H. "Jimmy" Mayberry, C. Lewis McDearmon, Jr., John T. "Plicky" Williams and Jennifer Jamerson-Scruggs. Absent: Karl E. Carter. Also in attendance were Chad Millner, Stephanie James, Reed Johnson, Cliff Harvey, June & Bill Goodrich, Mary Lou Spiggle, Mr. Van Opstal, Marshall Goin, Dewitt Goin, Patrick Schroder, Will Simmons, Barbara Shelton, Teresa Murphy, BRR, Keith Morris, Wal-Mart, Tom Kline, Troutman & Sanders, George Joyner, Wal-Mart, Frank A. Wright, Jr., Town Attorney, Bart S. Van Nieuwenhuise, Town Manager and Roxanne W. Paulette, Clerk of Council.

Mayor Harvey called the meeting to order.

Mayor Harvey cited the purpose of the meeting as discussion with Wal-Mart representatives regarding the building design.

Mayor Harvey introduced Teresa Murphy, Architect with BRR; Keith Morris, Public Relations with Wal-Mart; Tom Kline, Attorney with Troutman & Sanders and George Joyner, Area Market Manager with Wal-Mart.

Mayor Harvey thanked everyone for coming to the meeting to discuss the exterior building design.

Councilwoman Jennifer Jamerson-Scruggs:

It was brought to council's attention several weeks ago with the structure and the design of the building with the front of the building. When it was brought to our attention, we directed staff to contact you and in my communication with the county building inspector. It was brought to my attention that the original plans the columns and vestibule in front of the store had been deleted or altered. I was on the original council with Mr. Lawson when he worked with you and I know that Wal-Mart has restructured and those plans were created by Wal-Mart by what Mr. Lawson had been communicating on behalf of Council as to what Council and members of the community wanted here. Those were the plans that were actually created by Wal-Mart and presented to Council and the community. And that's the store that we were told we were going to get. We do realize that we are going to have a considerable amount of growth over the next few years and we wanted to be active in the architectural design of the building. When it was brought to my attention by the county planner, it had been indicated to the Town Manager and that additional plans had been submitted and they had not. The Wal-Mart store is still attractive and brick has a more elegant and historic look to it and it is what we are trying to drive this community to. Not concrete and paint...although that looks nice.

Councilmember Mayberry referred to Kelly Hobbs who was also involved originally with the project in Appomattox and presented two town hall meetings with the public and now within the last two weeks we've been told that it is not going to look like that.

Councilmember Williams noted that in the small/fine print on the original drawings: "REPRESENTATION ONLY NOT FOR CONSTRUCTION" "BUILDING IMAGES SHOWN ARE A REPRESENTATION OF THE DESIGN INTENT AND MAY NOT REFLECT ANY SUBTLE VARIATIONS IN COLOR. MATERIAL OR CONSTRUCTION THAT MAY OCCUR DUE TO LOCAL MATERIAL DIFFERENCES AND FINAL DESIGN DETAILING" and that may be an out for you but it gives me heartburn.

Councilwoman Jamerson-Scruggs had hoped that Wal-Mart would act in good faith regarding the exterior building design. However, cites that she realizes our lack of architectural ordinances could present a problem for the Town. We want some accountability here with the store.

Councilmember Baine:

As I am sure you know as with any big project like this there are many people within the community that are excited you are coming, some are not whether it be merchants, those concerned about sprawl, concerned about National Park Service, some folks died on that site so there are all kinds of people who are excited, as Council member I could say, and I am one of those folks which I'll admit I'm not real excited but I'm looking for the positives. I could at least say they are willing to work with us, its going to be brick, have a vestibule, a road that won't go through the old house, columns, look at the picture they sent us and now they are looking at me like I've sold them a false bill of goods and I do not appreciate that.

Mr. Williams:

I am sure you are here today to assure us and the citizens here to today that the Wal-Mart coming to our area will look like the original rendition. I look forward to your response.

Tom Kline, Attorney, Troutman & Sanders:

Responded to the concerns and what has transpired ---While the building was being permitted, closed on and construction about to begin, Wal-Mart was going through a review of their architectural design. Wal-Mart recognizes there was a lapse in communication between themselves and the Town. Appomattox is unique in that the County does building inspection and the Town does Zoning and Site Plan review. A Wal-Mart team member contacted the County and not the Town. The team recognized the communication error or lapse. As soon as that happened Teresa Murphy met with Bart Van Nieuwenhuise. We understand the perception. What Wal-Mart has done is changed the brick exterior to a split face block. There has only been a change in material.

Wal-Mart is offering a coloring rendition close to brick, columns $\frac{3}{4}$ of the building high (not to the top of the building) and using Atlas Brick on the columns.

Mr. Mayberry asked about have the sides bricked on the smooth block. Ms. Murphy responded that that would not be possible because it is cost prohibitive.

Ms. Jamerson-Scruggs asked why the columns couldn't be higher than the building. Ms. Murphy responded that there have been some water-tightness issues and the lower columns adhere more to the architectural look of the new buildings.

Mr. Baine asked how many of the new buildings have vestibules. Ms. Murphy responded not many.

Ms. Jamerson-Scruggs asked what types of material were used in historical site for a 99,000 square foot supercenter. Mr. Klein and Ms. Murphy responded that it is usually mixed material.

Mr. Klein asked what could Wal-Mart do to bring it closer to the original design?

Ms. Jamerson-Scruggs said the original design makes a statement and the ¾ high columns does not make a statement.

Mr. Baine indicated that the columns look like bricked up doorways.

Mr. Kline indicated there is no functionality of the columns. Wal-Mart is trying to bring down the features so they are not so massive.

Mr. Mayberry said it looks like you could give back more than you are giving.

Mr. Klein stated that they have heard council's concerns and we will take them back to corporate.

Mayor Harvey stated that the renditions look like an afterthought.

Mr. Williams stated that in the original design the entrance sign is below the roof line and the columns are above the roof line and in the proposal the entrance is above the roof line and the columns are ¾ the height of the wall. The loading/receiving docks have a wall that blocks the view. Will that wall be there to block the view? Ms. Murphy indicated that the wall will be placed as shown in the original design.

Mr. Mayberry asked as to the timeframe of the next design. Mr. Morris responded as soon as possible. Having been able to hear the concerns first hand has been helpful.

Again, Mayor Harvey thanked everyone for coming.

Mr. Klein recognizing the urgency of the project will try to provide revisions if approved to council members as soon as possible.

Mr. Baine asked if the archeological site marker has been changed or moved? Mr. Klein responded that he would check with the civil engineer. If there has been a modified drawing – it would have been submitted to the town.

Mr. Kline reminded Council of the unique situation here in Appomattox with the County handling Building Inspections and the Town handling Zoning and Site Plan approval. From Wal-Mart's perspective it was an honest miscommunication.

Ms. Jamerson-Scruggs asked about the grave site markers and the preservation of the graves.

Mr. Kline again said he would speak with the Civil Engineer tomorrow. Mr. Van Nieuwenhuise advised Ms. Jamerson-Scruggs that one grave was relocated and the other was not found.

On a motion by Councilmember Mayberry, seconded by Councilmember Williams, Council voted to adjourn at 5:50 p.m. All members present voting aye. Motion carried.

Roxanne W. Paulette, CMC
Town Clerk

Paul D. Harvey
Mayor

TOWN OF APPOMATTOX - APPOMATTOX TOWN COUNCIL

DRAFT - 2010 MEETING SCHEDULE

Location: Appomattox Municipal Building, 210 Linden Street, Appomattox, Virginia

January 2010

Monday, January 11, 2010 at 7:30 p.m. – Regular

Tuesday, January 26, 2010 at 7:00 p.m. – Workshop

February 2010

Monday, February 8, 2010 at 7:30 p.m. – Regular

Tuesday, February 23, 2010 at 6:00 p.m. – Joint meeting with the Appomattox Co. Board of Supervisors

Tuesday, February 23, 2010 at 7:00 p.m. – Workshop

March 2010

Monday, March 8, 2010 at 7:30 p.m. – Regular

Tuesday, March 23, 2010 at 7:00 p.m. – Workshop

April 2010

Monday, April 12, 2010 at 7:30 p.m. – Regular

Tuesday, April 27, 2010 at 7:00 p.m. – Workshop

May 2010

Monday, May 10, 2010 at 7:30 p.m. – Regular

Tuesday, May 25, 2010 at 7:00 p.m. – Workshop

June 2010

Monday, June 14, 2010 at 7:30 p.m. – Regular

Tuesday, June 29, 2010 at 7:00 p.m. – Workshop (5th Tuesday)

July 2010

Monday, July 12, 2010 at 7:30 p.m. – Regular

Tuesday, July 27, 2010 at 7:00 p.m. – Workshop

August 2010

Monday, August 9, 2010 at 7:30 p.m. – Regular

Tuesday, August 24, 2010 at 6:00 p.m. – Joint meeting with the Appomattox County Board of Supervisors

Tuesday, August 24, 2010 at 7:00 p.m. – Workshop

September 2010

Monday, September 13, 2010 at 7:30 p.m. – Regular

Tuesday, September 28, 2010 at 7:00 p.m. – Workshop

October 2010

*Tuesday, October 12, 2010 at 7:30 p.m. – Regular (*Monday, October 12, 2010 – Columbus Day Holiday)

Tuesday, October 26, 2010 at 7:00 p.m. – Workshop

November 2010

Monday, November 8, 2010 at 7:30 p.m. – Regular

Tuesday, November 23, 2010 at 7:00 p.m. – Workshop

December 2010

Monday, December 13, 2010 at 7:30 p.m. – Regular

Tuesday, December 28, 2010 at 7:00 p.m. – Workshop

*Code of the Town of Appomattox.

§5-8. Time and Place.

If the second Monday of the month is a holiday, the meeting shall be held on the following day.

If a Council Meeting (Regular or Workshop) is canceled due to inclement weather, the council will meet the following night. A motion duly seconded and voted upon by council could change or remove any of the above dates or times.

**A RESOLUTION TO SUPPORT CONTINUED STATE AID TO
LOCALITIES WITH POLICE DEPARTMENTS
(599 PROGRAM FUNDS)**

Whereas, the Commonwealth of Virginia is considering reducing or deleting 599 program funds in the upcoming fiscal year to reflect the downward projection of revenues; and,

Whereas, Section 9.1-169 and 9.1-170 of the Virginia Code determines the formula for distribution of these funds; and,

Whereas, it is suggested that the General Assembly and Governor comply with this statute in this regard; and,

Now, therefore, Be It Resolved that any reductions or deletion to the 599 program greatly impacts the Town of Appomattox as allocations derived from this program are used to supplement the Town's contractual agreement with Appomattox County for police services; and,

Be it, Further, Resolved, that the Appomattox Town Council direct the Clerk of Council to mail a true copy of the approved Resolution to Delegate Watkins M. Abbitt, Jr. and Senator Frank M. Ruff, Jr.

THIS RESOLUTION was approved at the Regular Meeting of the Town of Appomattox, Virginia, Town Council conducted on _____, 2010.

APPROVED:

Paul D. Harvey, Mayor

ATTEST:

Roxanne W. Paulette, Clerk of Council