

## Regular Meeting

## County Board of Supervisors Room August 11, 2009

The Council of the Town of Culpeper convened in regular session at 6 p.m. with Mayor Pranas A. Rimeikis presiding. **Present:** Calvin L. Coleman, Duke M. duFrane, F. Steve Jenkins, Michael T. Olinger (arrived at 6:02 p.m.), Robert M. Ryan, Christopher H. Snider, William M. Yowell, Council Members; Jeffrey B. Muzzy, Town Manager; Robert W. Bendall, Town Attorney; Kimberly D. Allen, Town Clerk, Lisa D. Hutcherson, Deputy Town Clerk. **Also Present for the 7 p.m. Session:** Tonya Estes, Information Technology Director; Beth Burns, Tourism Director; Robert H. Thornhill, Jr., Public Works Director; Mark Bly, Light & Power Director; Christopher D. Hively, Environmental Services Director; Scott Barlow, Police Chief; Wally Bunker, Public Information Officer. **Absent:** James C. Risner, Council Member.

### AGENDA APPROVAL

Council Member Jenkins requested the addition of a discussion on current appointees to the Planning Commission and Parks & Recreation Commission to the closed session. Mayor Rimeikis requested council move Item 9.03C3, R/R Re: Soliciting Bids for Financing the New Police Station to Item 9.03b to follow the Award of Construction Bids for the same project.

Council Member duFrane moved, Council Member Jenkins seconded, approval of the amended agenda. The motion carried by unanimous voice vote (7-2—Aye-Coleman, duFrane, Jenkins, Olinger, Ryan, Snider, Yowell; Nay-Rimeikis; Absent-Risner).

### CLOSED SESSION

Vice Mayor Yowell moved, Council Member Jenkins seconded, council enter closed session to discuss the annual performance evaluation of the town clerk, to discuss or consider specifically named individuals being considered for appointment to authorities, boards, and commissions (specifically Veterans Recognition Committee, Tourism Advisory Committee, Economic Development Advisory Committee, and Culpeper Cable Commission) and to discuss current appointees to the Planning Commission and Parks & Recreation Commission pursuant to Code of Virginia Section 2.2-3711(A)(1). Further, he moved that council enter closed session to discuss with staff and/or legal counsel probable litigation regarding the settlement with HSMM regarding the equalization basin and gas digester at the wastewater treatment plant where discussion in open session may affect the bargaining position of the Town pursuant to Code of Virginia Section 2.2-3711(A)(7).

The motion carried by unanimous voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay-None; Absent-Risner).

Council entered closed session at 6:05 p.m. and open session at 6:40 p.m.

**Certificate of Closed Session:** Pursuant to Code of Virginia Section 2.2-3712, Mayor Rimeikis polled council for approval of the certificate of closed session that to the best of each member's knowledge, only business matters lawfully exempted from open meeting requirements under Code of Virginia Sections 2.2-3711 and 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.

The motion carried by the following roll call vote: Aye: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell (8); Nay: None (0); Absent: Risner (1).

**RECESS:** Council recessed at 6:41 p.m.

## **OPEN SESSION**

Council convened in open session at 7:00 p.m.

Council Member duFrane lead the Pledge of Allegiance.

## **CONSENT AGENDA**

On motion of Council Member Jenkins, seconded by Council Member Ryan, the items listed below were approved by the following roll call vote: Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell (8); Nay-None (0); Absent- Risner (10).

a. **R/R Re: Maintenance Payment for Streets in Pelhams Reach Subdivision:** Council accepted Hunters Road, Pelhams Reach Drive, and Woodruff Lane into the Town's streets system, adopted the resolution to request that these streets be accepted by VDOT for maintenance payments, and authorized the mayor and town clerk to execute the document.

b. **R/R Re: 250<sup>th</sup> Anniversary Celebration—Street Closing & Special Requests:** Council authorized the town manager to close the requested streets for the anniversary celebration events, waived the merchant and license fees for participants, waived the additional insurance coverage for Culpeper Ruritan Club, and committed Town forces to the preparation, traffic control, law enforcement, and clean-up of the activities.

c. **R/R Re: Veterans Recognition Committee—Extension of Term & Bylaws Amendments:** Council approved amending the Bylaws and Rules of Procedure of the Veteran's Recognition Committee to extend the term of the VRC until December 31, 2010, and amended Article VIII, Meetings, Section 1, to remove the specific time of the monthly meetings.

d. **R/R Re: Revision to Downtown Revitalization CDBG Program Income Plan:** Council approved the proposed revisions to the plan allowing a combination and prioritization of forgivable façade and streetscape improvements.

e. **R/R Re: FY2009 Budget Adjustments—General Properties:** Council authorized the transfer of \$4,135 from general fund contingency 12-9990-9990 as follows: \$3343 to general properties 4302-5620, heating services; \$205 to 4302-5720 telecommunications; and \$587 to 4302-5660 disposal fees to cover the unanticipated energy, telecommunications, and disposal costs during FY09.

f. **R/R Re: FY2009 Budget Adjustments—Visitors Center:** Council authorized the transfer of \$1926 from general fund contingency 12-9990-9990 to visitors center line item 8103-5610 to cover the unanticipated energy costs during FY09.

g. **R/R Re: Regional Water Supply Planning & Resolution:** Council approved the resolution indicating the Town's agreement to participate with Culpeper County in the development of a regional water supply plan, authorizing the Environmental Services Directors of the Town and County of Culpeper to manage and develop the plan, agreeing to pay the Town's share of the cost of the plan as mutually agreed between the two Directors. Council authorized the mayor and clerk to execute the resolution and authorized the town manager to sign and send the letter of intent to DEQ.

h. **R/R Re: Chamber Lease—Lease Extension for Office Space at the Depot:** Council approved the Chamber of Commerce's request for a lease extension for a four (4) year term at the current lease rate of \$490.94 per month including utilities, with the addition of a 3% annual multiplier built in, and including a provision to allow the Chamber of Commerce to sell items that relate to the Town of Culpeper. Council also authorized the town manager to sign the new four-year lease on behalf of the Town, which will become effective July 1, 2010.

i. **Treasurer's Report:** Council approved the treasurer's report reflecting a balance of \$32,567,020, and bills paid listings; there were no line item transfers.

j. **Minutes of Previous Meetings:** Council approved the minutes of the regular meeting of July 14 and special meetings on July 28 and 29, 2009.

## **SPECIAL ITEMS & RECOGNITIONS**

### **Employee of the Month**

Town Manager Muzzy announced Tourism Department Assistant Caroline Smeltz was selected as Employee of the Month for June 2009

**Proclamation Re: Town of Culpeper's 250<sup>th</sup> Anniversary:** The proclamation on the 250<sup>th</sup> Anniversary was read into the record.

## P R O C L A M A T I O N C O M M E M O R A T I N G T H E 2 5 0 <sup>T H</sup> A N N I V E R S A R Y O F T H E T O W N O F C U L P E P E R

**WHEREAS**, on April 9, 1759, the House of Burgesses granted a charter to the Town of Fairfax, which was renamed the Town of Culpeper on April 14, 1870; and

**WHEREAS**, after the Civil War, the town slowly emerged to become a prosperous regional marketing center; and

**WHEREAS**, the Town of Culpeper, in the late 1800's through early 1900's, began installing public infrastructure to provide services to its citizens (i.e. telephone lines, water and sewer systems and electricity); and

**WHEREAS**, in November, 1953, the Town hosted "*Operation Sky Glow*", the longest supper table in the world on Davis Street to celebrate the first fluorescent lights south of the Mason-Dixon line; and

**WHEREAS**, the Town held its Bicentennial celebration on April 14, 1959, on the Courthouse Lawn; and

**WHEREAS**, the Town of Culpeper has rebuilt the town to become one of America's Top Ten Small Towns; and

**WHEREAS**, on April 24, 2009, the Town of Culpeper kicked-off the celebration of its 250<sup>th</sup> Anniversary honoring the Town's heritage and history; and

**WHEREAS**, on September 19-20, the Town will celebrate 250 years with a Picnic-in-the-Park, a grand "Coleman Street" Parade, a Lord & Lady Culpeper Historic Costume Ball, and much more;

**NOW, THEREFORE**, the Council of the Town of Culpeper, Virginia, invites all citizens to participate in the 250<sup>th</sup> Anniversary Celebration and activities and help the Town continue making history.

**GIVEN** under our hands this 11<sup>th</sup> day of August 2009.

## **COMMENTS & CORRESPONDENCE....FROM THE AUDIENCE**

No one addressed council.

## **UNFINISHED BUSINESS/GENERAL ORDERS**

### **Closed Session Items**

Vice Mayor Yowell moved, Council Member Jenkins seconded, to appoint Tammy Barboza to the Veterans Recognition Committee effective immediately with her term expiring November 30, 2009.

The motion carried by unanimous voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay-None; Absent-Risner).

## **NEW BUSINESS—PUBLIC HEARINGS**

### **Case AMD-003-2009: Request by the Town of Culpeper to amend the Town's Zoning & Subdivision Ordinances, Sections 22-120, 27-276, & 27-354 to allow for the extension of subdivision plats, site plans, and zoning approvals to address the housing crisis**

Zoning Administrator Maxie Brown gave a brief overview of the new legislation, Section 15.2-2209 of the Code of Virginia, stating the expiration dates for subdivision plans and site plans extend until at least July 1, 2014, provided the plans were outstanding as of January 1, 2009. This new legislation also applies to conditional or special use permits, zoning approvals, rezoning and proffers, which were outstanding as of January 1, 2009. These extensions are subject to certain exceptions and conditions as set forth in the law.

Mayor Rimeikis opened the public hearing.

There being no one to address council on Case AMD-003-2009, Mayor Rimeikis closed the public hearing.

### **R/R Re: Case AMD-003-2009--Amendments to Town's Zoning & Subdivision Ordinances, Sections 22-120, 27-276, & 27-354 to allow for the extension of subdivision plats, site plans, and zoning approvals to address the housing crisis**

Zoning Administrator Maxie Brown stated pursuant to Section 15.2-2209.1 of the Code of Virginia, as amended (new legislation), the expiration dates for subdivision plans and site plans extend until at least July 1, 2014, provided the plans were outstanding as of January 01, 2009. This new legislation also applies to conditional or special use permits, zoning approvals, rezoning and proffers, which were outstanding as of January 1, 2009. These extensions are subject to certain exceptions and conditions as set forth in the law.

The stated purpose of this new law is to extend the expiration dates of site plans and subdivision plans to address the housing crisis by allowing the postponement of housing construction. From a local prospective, the purpose is to control situations where outstanding approvals can be extended beyond that date. The proposed ordinance allows Town Council to extend expiration dates.

## **NATURE OF AMENDMENTS**

<b><u>Chapter &amp; Section</u></b>	<b><u>Nature of Change</u></b>
Chapter 22, Subdivision. Sec. 22-120. Extension of Subdivision Plat Approvals	Adds language to extend approvals for subdivision plats, which were outstanding as of January 1, 2009, to July 1, 2014, or such later date provided for by the terms of the Town's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the Town Council.
Chapter 27. Site Plans. Sec. 27-276. Extension of Site Plan Approvals	Adds language to extend approvals for site plans, which were outstanding as of January 1, 2009, to July 1, 2014, or such later date provided for by the terms of the Town's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the Town Council.
Chapter 27. Article XIII. Administration and Enforcement. Sec. 27-354. Extension of Zoning Approvals	Adds language to extend approvals for special use permits, zoning approvals, rezoning actions and proffered conditions, valid as of January 1 2009, to July 1, 2014, or such later date provided for by the terms of the Town's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the Town Council.

There would be minimal costs incurred to publish the ordinance amendments.

## **PLANNING COMMISSION RECOMMENDATION**

July 21, 2009, the Planning Commission held a public hearing and voted 4-0 (Mr. Risner absent) to recommend approval of the ordinance amendments, as submitted. No public comment was received.

Council Member Snider moved, Council Member Olinger seconded approval of Case AMD-003-2009--amendments to Town's Zoning & Subdivision Ordinances, Sections 22-120, 27-276, & 27-354 to allow for the extension of subdivision plats, site plans, and zoning approvals to address the housing crisis.

The motion carried by voice vote (7-1—Aye-duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay-Coleman; Absent-Risner).

### **Case AMD-004-2009: Request by the Town of Culpeper to amend the Town's Zoning Ordinance, Sections 27-181 & 27-183 of Article VII, Vested Rights Not Impaired; Nonconforming Uses**

Maxie Brown, CZA/AICP, Zoning Administrator, gave a brief overview stating in May 2009, an existing single family dwelling burned, located at 416 E. Chandler Street. This property is located in the Light Industrial (M-1) Zoning District Classification. The fire was accidental and resulted in the total loss of the residence.

While working on how to best accommodate the rebuilding of this residence, the Assistant Town Attorney discovered new legislation, to become effective July 1, 2009, which allows owners of property damaged by an accidental fire to rebuild. The proposed amendments incorporate these new regulations into the Town's ordinances to allow residences to be reconstructed if damaged or destroyed by fire or other disaster.

Mayor Rimeikis opened the public hearing.

There being no one to address council on Case AMD-004-2009, Mayor Rimeikis closed the public hearing

### **R/R Re: Case AMD-004-2009: Amendments to the Town's Zoning Ordinance, Sections 27-181 & 27-183 of Article VII, Vested Rights Not Impaired; Nonconforming Uses**

Maxie Brown, CZA/AICP, Zoning Administrator stated in May 2009, an existing single family dwelling burned, located at 416 E. Chandler Street. This property is located in the Light Industrial (M-1) Zoning District Classification. The fire was accidental and resulted in the total loss of the residence.

This condition prompted staff to review ordinance amendments which occurred in December, 2006, wherein the Town's Light Industrial (M-1) Zoning District Classification was amended to prohibit new dwelling units. At that time, staff believed that any existing dwelling unit located in the M-1 District could be replaced by obtaining a conditional use permit, as provided for in Section 27-186 of the Town's Nonconforming Use Chapter. To-date, this section has not been used to allow a dwelling to be re-built.

While working on how to best accommodate the rebuilding of this residence, the Assistant Town Attorney discovered new legislation, to become effective July 1, 2009, which allows owners of property damaged by an accidental fire to rebuild. The proposed amendments incorporate these new regulations into the Town's ordinances to allow residences to be reconstructed if damaged or destroyed by fire or other disaster.

### **Nature of Amendments**

<b><u>Chapter &amp; Section</u></b>	<b><u>Nature of Change</u></b>
Chapter 27, Zoning. Article VII. Nonconforming Uses Sec. 27-181. Purpose and Intent	Adds language to allow buildings, structures and uses which were lawful when begun, but do not conform to the zoning district or other provision of this chapter, may be continued as prescribed.
Chapter 27, Zoning. Article VII. Nonconforming Uses Sec. 27-183. Nonconforming land, buildings and structures, limitations.	Mirrors State Code provisions for replacing/rebuilding nonconforming uses and/or structures. Provides for the owners of residential or commercial buildings damaged by a natural disaster or other act of God to repair, rebuilt or replace such building within two years of the date of the natural disaster. This provision shall also apply to owners of property damaged by an accidental fire.

There would be minimal costs incurred to publish the ordinance amendments.

### **PLANNING COMMISSION RECOMMENDATION**

July 21, 2009, the Planning Commission held a public hearing and voted 4-0 (Mr. Risner absent) to recommend approval of the ordinance amendments, as submitted. No public comments were received.

Council Member Ryan moved, Council Member Jenkins seconded approval of Case AMD-004-2009: amendments to the Town's Zoning Ordinance, Sections 27-181 & 27-183 of Article VII, Vested Rights Not Impaired; Nonconforming Uses.

The motion carried by voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay-None; Absent-Risner).

### **REPORTS & RECOMMENDATIONS FROM AUTHORITIES, BOARDS, & COMMISSIONS** -

None

### **REPORTS & RECOMMENDATIONS FROM COUNCIL COMMITTEES**

#### **LIGHT & POWER AND WATER & WASTEWATER COMMITTEE**

#### **R/R Re: Addition to Town Code--Chapter 24, Fats, Oils, & Grease (FOG) Ordinance (second reading)**

Town Manager Muzzy presented the report and recommendation stating the Town currently has a Pretreatment Program approved by Virginia DEQ and EPA, and issues Pretreatment Permits to Significant Industrial Users and Categorical Industrial Users, but has no provision to issue permits to other types of non-industrial problem contributors to the wastewater treatment facility.

Section 24-232(a)(2) of the Town Code, General Discharge Prohibitions, states that: ... “a user may not contribute the following substances to any Publicly Owned Treatment Works (POTW): Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease...” Currently, this is the only reference to FOG discharges.

The Town continues to experience on-going maintenance issues with the Montanus, Lightfoot, and High Point pump stations due to the excessive build up of grease and debris which is a by-product of the effluent from the numerous restaurants and food service operations in those areas. In spite of the fact that the DES staff routinely adds degreaser products to the pump station wells, the build-up often exceeds the capability of DES equipment. Therefore, special equipment must be leased from the Roto-Rooter Company several times per year at a cost of approximately \$3,000 per event. In addition, the excessive grease also causes maintenance and treatment problems at the wastewater treatment facility.

It is proposed that the attached ordinance be enacted to require grease traps or grease interceptors and to establish a permit process for business or other dischargers whose discharge contain fats, oil or greases in concentrations above one hundred milligrams per liter (100mg/l). A fee of \$250 for a five-year permit would recover the cost of the permit process as well as the necessary annual inspections and laboratory testing. An effective date of January 1, 2010 is suggested to provide an ample period for notification and compliance. A copy of the proposed regulation that has been developed was provided and will be enacted subsequent to adoption of this proposed ordinance change.

Further, since the current fee of \$100 for a five-year permit for significant industrial users does not cover the cost of quarterly inspections and laboratory tests, currently about \$50 per quarter, it is suggested that this permit fee be increased to \$1,000 for each five year permit, effective January 1, 2010. It is noted that each of the Town's five current significant industrial users will have renewed their permits prior to that date. Therefore, current customers would experience no financial impact from this change until approximately 2014.

The financial impact would increase revenue in the form of FOG permit application fees of approximately \$12,000 over a five year period or an average of \$2,400 per year; increase expenditures to perform laboratory testing associated with administering the FOG program of approximately \$12,000 over a five year period or an average of \$2,400 per year; increase revenue from the fee increase to Significant Industrial Users Permits of approximately \$900 per year to fully cover monitoring costs; decreased expenditures for Roto-Rooter equipment rental, degreaser chemicals, and maintenance costs at both the pump stations and the wastewater treatment facility in the amount of approximately \$7,600 per year; and a net gain of approximately \$8,500 per year.

Council held the first reading of the proposed Fats, Oils, & Grease (FOG) Ordinance at its regular meeting on July 14 and is now holding the second reading of the proposed ordinance. It is recommended that council:

- (1) Enact the FOG discharge ordinance for inclusion in the Town Code to establish a permit process and to ensure that regulations are in place to require on-site grease traps and maintenance and disposal procedures for grease and other food preparation by-products currently going into the community's wastewater stream; and
- (2) Set a fee in the amount of \$250 for a five year permit for each FOG discharger; and
- (3) Increase the current fee for significant industrial users from \$100 for a five year permit to \$1,000 for a five year permit; and
- (4) Make the ordinance effective January 1, 2010.

Council Member Olinger moved, Council Member Coleman seconded, approval of the report and recommendation as presented.

The motion carried by voice vote (7-1—Aye-Coleman, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay- duFrane; Absent-Risner).

**PUBLIC SAFETY, PUBLIC WORKS, PLANNING & COMMUNITY DEVELOPMENT COMMITTEE**

**R/R Re: Donations to Wine Street Memorial Park**

Town Manager Muzzy presented the report and recommendation stating that continuing with the gifting program for Wine Street Memorial Park, these individuals and groups wish to donate the following items:

<b>Donor:</b>	<b>In Honor/Memory Of:</b>	<b>Donated Item:</b>	<b>Donated Amount:</b>
Mrs. Boyd W. Collins	Hassel Taylor	Funds toward a central veteran's monument	\$100.00
Ethel Joan Allen	Our Military Brothers and Sisters	Funds toward a central veteran's monument	\$ 10.00
Anonymous donations from the Museum of Culpeper History	All veterans of WWII and the Korean Conflict	Funds toward a central veteran's monument	\$ 54.00
Anonymous donations from Culpeperfest	All veterans of WWII and the Korean Conflict	Funds toward a central veteran's monument	\$ 15.00
Mary Ann Allen Cowherd	Charles R. Allen	1 – 12” x 12” paver	\$100.00
Thomas E. Huggard	All veterans of WWII and the Korean Conflict	Funds toward a central veteran's monument	\$ 50.00
Thomas E. Huggard	Vincent P. Huggard	1 – 8” x 8” paver	\$ 50.00
Werter Hurt	Charles B. Stringfellow	1 – 12” x 12” paver	\$ 100.00
Werter Hurt	Thornton Stringfellow	1 – 12” x 12” paver	\$ 100.00
Werter Hurt	James L. Stringfellow	1 – 12” x 12” paver	\$ 100.00
Werter Hurt	Charles E. Stringfellow	1 – 12” x 12” paver	\$ 100.00
Werter Hurt	Woods P. Stringfellow	1 – 12” x 12” paver	\$ 100.00
Eleanor Rinker	Werter Hurt	1 – 12” x 12” paver	\$ 100.00
Barbara & Samuel Lacks	Mercer W. Clatterbuck	1 – 4” x 8” paver	\$ 50.00
Sally McDevitt	All veterans of WWII and the Korean Conflict	1 – brochure stand	\$ 250.00
<b>Totals:</b>			<b>\$ 1,279.00</b>

The cost for each engraved paver is as follows: a 4” x 8” brick--\$50 (with up to three horizontal lines with a maximum of 11 characters per line); an 8” x 8” paver--\$75 (with up to three lines with a maximum of 11 characters per line); and a 12” x 12” square paver--\$100 (with up to three diagonally engraved lines). For donations of \$1,000, donors may choose to donate a memorial bench (eight currently available) or one of two picnic tables. Plaques will adorn each bench or table, which staff will coordinate with the donor to personalize. The Parks and Recreation Commission has approved additional placement of 12” x 12” pavers along the walkways. This will offset the continued demand for these particular pavers. Once these spaces are filled, 12” x 12” pavers will no longer be available for donation.

At their April regular meeting, the Parks and Recreation Commission finalized the Master Plan for Wine Street Memorial Park. As part of that plan, a brochure stand was included. The stand would provide donation brochures and other information regarding the park. Per the Master Plan, the brochure stand is to be installed near to the entrance to the park. In the time since, Sally McDevitt has approached staff with the intention of donating a brochure stand. Such a stand is estimated at \$250 and requires minor work to install.

The current donations and requests will offset the total cost of the project by \$1,279. To date, the Town has accepted \$65,103.28 in donations for this park.

It is recommended that Council accepts the donations from Mrs. Boyd W. Collins, Ethel Joan Allen, anonymous donations from the Museum of Culpeper History, anonymous donations from Culpeperfest, and Thomas E. Huggard for funds toward a central veteran’s monument; Barbara and Samuel Lacks for a 4” x 8” paver; Thomas E. Huggard for an 8” x 8” paver; and Mary Ann Allen Cowherd, Werter Hurt (5), and Eleanor Rinker for 12” x 12” pavers; and Sally McDevitt for a brochure stand at Wine Street Memorial Park.

Vice Mayor Yowell moved, Council Member Snider seconded, approval of the report and recommendation as presented.

The motion carried by voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay- None; Absent-Risner).

**FINANCE, PERSONNEL, TECHNOLOGY & ORDINANCE COMMITTEE**

**R/R Re: Donations to 250th Anniversary Celebration**

Town Manager Muzzy presented the report and recommendation stating these individuals and groups wished to donate the following items to offset the costs of the Town’s 250<sup>th</sup> anniversary celebration:

<b>Donor:</b>	<b>Donated Item:</b>	<b>Donated Amount:</b>
Davies, Barrell, Will, Lewellyn, & Edwards, PLC		\$250
Natalie Will		\$50
Hunt Country Rentals	\$350 off price of tent rental	\$350
culpeperhotspot.com	Online advertising	\$500
Marty Moon & Butch Davies		\$250
Jim & Lori Risner		\$250
<b>Totals:</b>		<b>\$1650</b>

The current donations will offset the total cost of the project by \$1650. To date, the Town has accepted \$2300 in donations for this event.

Cash donations will be deposited into a separate bank account established for the 250<sup>th</sup> Anniversary Committee. General Fund department 8107 has been established for the purpose of 250<sup>th</sup> anniversary expenses and donations.

It is recommended that Council accepts the donations totaling \$1650 from Davies, Barrell, Will, Lewellyn, & Edwards, PLC, Natalie Will, Hunt Country Rentals, culpeperhotspot.com, Marty Moon & Butch Davies, and Jim & Lori Risner.

Council Member Ryan moved, Council Member Jenkins seconded, approval of the report and recommendation as presented.

The motion carried by voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay- None; Absent-Risner).

**R/R Re: Verizon FIOS Franchise--Advertisement for Bids**

Town Manager Muzzy presented the report and recommendation stating that staff had been negotiating a proposed franchise agreement with Verizon for the past 4 – 5 months, regarding their stated intent to bring FIOS TV to Culpeper. Initially Verizon was very anxious to get the franchise issues resolved and approved by Council. When our discussions began, the Verizon representatives were quite receptive to our requests and stated that they intended to bring FIOS service to the entire town. We thought we were ready to bring the issue to the committee several months ago but were informed by Verizon that they needed additional time to complete their review. We were subsequently informed that while Verizon still wanted to proceed ahead for franchise approval, they intended to scale back the coverage area for the town. The FIOS franchise has now been redrafted to reflect the latest coverage areas of the Town as proposed by Verizon.

The proposed franchise was presented to the Finance Committee on August 4 with a staff recommendation to send it on to Council on August 11, for authorization to advertise for bids. The bids can be received and ready for approval at the September meeting.

Lori Edwards, Cable Franchising Manager with Verizon, and Town Attorney Bendall discussed state regulations which regulate cable franchise negotiations as well as the proposed franchise details.

A copy of the proposed franchise, a map showing the areas where they initially plan to deploy FIOS cable, Verizon's planned presentation to the committee and a memo from Bob Bendall on the franchise process is on file in the Clerk's Office in the meeting packet.

There will be costs incurred to advertise for bids for the franchise.

It is recommended that Council authorizes the town manager or his designee to advertise for bids on the proposed franchise. The bids will be received and may be approved at the regular September 2009 council meeting.

Town Attorney Bendall provided a synopsis of the Verizon FIOS Franchise and stated that Verizon's designated service area within three years of the effective date of the franchise would be no less than 1,000 occupied residential dwelling units that were in the Franchise area and capable of being served by Verizon's FTTP (Fiber to the Premises) Network. In addition, Verizon would be required under the franchise to make service available to no less than sixty-five percent (65%) of the residential dwelling units in the franchise area within seven years of the effective date of the franchise and to no less than eighty percent (80%) of the residential dwelling units in the franchise area within ten years of the effective date of the franchise.

The term of the Franchise is fifteen years, unless earlier surrendered or revoked. Verizon also agreed to pay the Town a PEG Capital Grant Surcharge Fee (recovered from subscribers) in the amount of fifteen cents (\$.15) per month, per subscriber to Verizon's Basic Service Tier. The PEG Surcharge Fee shall be only used by the Town to support the capital costs.

Beginning December 16, 2009, (the date on which the current cable provider's Franchise expires) the Town will require a similar PEG Capital Grant Surcharge Fee from all other cable operators in the Town to support the capital costs of the PEG Access Channel facilities.

Verizon has agreed to the following:

- Provide one PEG (Public, Education and Government) channel and up to two additional PEG Access Channels subject to certain conditions.
- Provide for interconnection capability with other cable systems.
- Comply with the Emergency Alert System (EAS) requirements of the FCC.
- Provide two points of origination for programming broadcast.
- File certain reports to the Town and open its books and records for Town inspection.
- Maintain in full force and effect, Commercial General Liability Insurance \$2,000,000.
- Maintain Automobile Liability Insurance, \$1,000,000.
- Maintain Workers' Compensation Insurance meeting all legal requirements of the Commonwealth of Virginia.
- Maintain Employer's Liability Insurance.

Ms. Edwards stated that Verizon was eager to offer the Triple Play service and it was a good opportunity for the town.

Council Member duFrane asked why the initial service area was so small, and Attorney Bendall responded by saying Verizon may build faster but currently, this was allowable by State law.

Vice Mayor Yowell commented he supported this option and felt this was a small step in providing the type of service town residents wanted.

Council Member Olinger moved, Council Member Coleman seconded, approval of the report and recommendation as presented.

The motion carried by voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay- None; Absent-Risner).

#### **R/R Re: New Police Station--Award of Construction Bids**

Town Manager Muzzy presented the report and recommendation stating the Town of Culpeper and the Police Department have been exploring options for a new police headquarters. In 2008, the Town purchased an existing building located at 740 Old Brandy Road for \$2.85M and planned to remodel the structure for the needed new police facility.

Dominion Development Resources, LLC (DDR) was selected to provide the architectural, engineering, and interior design services necessary to renovate the purchased building into an appropriate new police headquarters.

DDR previously completed the final phase of the project design and provided the Town with the design and construction cost estimates. Council, at their meeting on July 14, 2009 authorized the project to be put out to bid, with the results to be presented to Council at the August 11 meeting. The project is being bid in several components, including the major construction phase, FF & E (furniture, fixtures and equipment) and security. Construction bids were opened on August 6 at 6:00PM in the Town Municipal building. The bidding for the other components is ongoing.

Financing for the project has been planned to be obtained after the construction bids were received by Council at the August meeting. It is planned that the financing will be obtained via the same process that was utilized for the bond refinancing which occurred in May of 2009 (i.e. a Bank Qualified Private Placement). Council is also being requested at the August 11 meeting to authorize its Financial Consultant, Davenport & Company LLC to go out for bids to obtain the financing for the new police facility and return with the results for approval at the September 8 meeting.

The sequence of events includes Town Council approve the overall project budget at tonight's meeting, approve the recommended lowest responsible bid for the construction component of the project and authorize staff to prepare the necessary contracts for approval at the September 8.

Bids were received for the major construction portion of the project on Thursday at 6:00PM. Construction bids were very favorable and will result in considerable savings over the project estimates. Final costs for the other components are being finalized.

It is recommended that Council approve the overall project budget, accept the recommended lowest responsive bidder for the construction component and authorize staff to prepare the necessary contracts for Council approval at the September 8 meeting.

Bob Anderson, DDR representative stated that based on the construction bids received on August 6<sup>th</sup>, the current project budget estimate was \$5,497,017 compared to \$6,682,448 (July 13, 2009). He indicated he had been in this type of business for 40 years and had never had a bidding situation such as this. There were 16 bidders and the highest bidder was almost \$1,000,000 below what was budgeted for the project. This is due to Council's willingness to expedite their approval process in order to take advantage of a favorable bidding market.

Mr. Anderson reviewed the revised budget line by line with council and explained the based building renovation amount had changed from \$3,115,748 to \$1,549,017 due to security items being removed at the Information Technology Departments request. They will be bid separately with a separate contract. Mr. Anderson stated the \$140,000 listed in contingency in the bas building budget was removed due to now entering the contract so it is shown in the miscellaneous line item totaling \$150,000. Other items such as furniture and equipment were now \$295,000 from \$400,000 and re-roofing of the building has been added for \$234,500.

Mr. Anderson commented that re-roofing had been added as a new line item (\$234,500) because the final base building renovation cost had been reduced substantially. It is recommended that some of the savings in that cost reduction be put into the installation of a new roof for the building. The existing roof has an estimated 15 years remaining on its original life expectancy, although the original study performed by Mosbey and Associates stated the roof did not need to be replaced, several issues have arisen that would suggest that a new roof would be a sound and sensible investment at this time. Mr. Anderson highlighted the following recommendations:

- The original roof is flat and does not have good positive drainage. Ponding is visible on the roof and would indicate that a 15 year life expectancy may be an over-statement.
- The original roof is a "TPO" roof system and although a good system, all roofs on Culpeper County school buildings are EPDM systems. Because of this, local skills and materials are readily available for repair work on EPDM systems but not on TPO systems.
- A new roof would extend the warranty of the roof to 30 years.
- Installing a new roof at this time, when prices are competitive at a level that is not likely to be seen again for the next 30 years, would be a wise investment at this time.

Mr. Anderson reviewed with Council the three lowest bidders':

- Miller Brothers (3<sup>rd</sup> lowest) - \$1,618,872
- Cross Section, Inc. (2<sup>nd</sup> lowest) - \$1,597,081
- C. L. Lewis & Co. (1<sup>st</sup> lowest) - \$1,549,017

In response to a question from Council Member Jenkins, Mr. Anderson replied the estimate to re-roof the building was \$234,500. Mr. Anderson stated he felt this was a conservative price and the existing roof would be removed due to the fact that it is flat, had inadequate insulation and drainage.

Council Member Jenkins asked when the assessment was done on the roof indicating the 15 year timeframe and Mr. Anderson replied about a year and a half ago.

Vice Mayor Yowell asked what the square footage was of the roof and Mr. Anderson replied 20,373 sq. ft.

Council Member duFrane asked if there were opportunities in re-roofing and re-insulating and since it is a government facility, would there be grants available. Mr. Anderson replied he had not looked into that possibility but could do so.

Vice Mayor Yowell commented that everything looked fine and that a new roof would save money in the long run, but felt that you would want to get the remain life of 10 – 15 years out of the existing roof before spending additional funds.

Council Member Snider commented that the mitigating factor could be the cost savings on the utilities with the insulation.

Mr. Anderson stated there was one other consideration, the warranty on the existing roof. He was told that it was possible the manufacturer would not guarantee the roof as it is currently due to the way it is ponding. Adding equipment to the roof and we have to penetrate it and do some new roof work may create a problem in terms of the warranty on the overall roof as well.

Council Member Snider clarified that if council approved the overall project budget but did not like the bid amounts for a new roof, could that part be removed and submitted separately. Mr. Spencer replied yes.

Council Member Coleman asked for clarification as to what was included in the security system for \$135,000. Mr. Anderson replied it was closed circuit television, alarm system, computer system, wiring, various alarms and other items.

Mayor Rimeikis commented that since this item would be coming back to council in September, there appeared to be time to tweak the contracts or bids.

Council Member duFrane asked what was being asked to be accomplished at tonight's meeting. Mayor Rimeikis replied it was to authorize staff to prepare the necessary contracts for council approval.

Council Member Jenkins asked if it included the roof itself and Mayor Rimeikis replied yes.

Council Member Coleman clarified that staff was just bidding it out at this time and that council would review the bids. Mr. Anderson replied that staff would not enter a contract unless it has been approved by council.

Council Member Snider moved, Council Member Coleman seconded, approval of the overall project budget of \$5,497,017, accepted the recommended lowest responsive bidder, C.L. Lewis & Co, for the construction component, and authorized staff to prepare the necessary contracts for the September council meeting.

Council Member duFrane asked to define what was being committed to tonight, if we were holding on re-roofing to get numbers, holding the security system until we get numbers and holding on the miscellaneous until we get more information, approximately \$510,000.

Mayor Rimeikis clarified that the recommendation was to approve the overall revised project budget, accept the lowest responsive bidder and authorize staff to prepare the necessary contracts for the lowest bidder.

Council Member Coleman stated he was ready to proceed with the lowest bid and authorize staff to proceed with a contract for the lowest bid. The other items could be addressed at the September council meeting.

Town Manager Muzzy stated the next item on the agenda council would be considering was the financing of the project. The town's financial advisors would need to know the amount to solicit for competitive bids. Mr. Muzzy reiterated that funds in the budget that is not spent will stay there to be used to repay the debt of for the debt service.

Mayor Rimeikis clarified the motion was to approve the recommendation the way it was written, to approve the overall revised project budget, accept the lowest responsive bidder and authorize staff to prepare the necessary contracts for the lowest bidder.

The motion carried by voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay- None; Absent-Risner).

**R/R Re: Soliciting Bids for Financing the New Police Station**

Town Manager Muzzy presented the report and recommendation stating the Town of Culpeper and the Police Department have been exploring options for a new police headquarters for some time. In 2008 the Town purchased an existing building located at 740 Old Brandy Road for \$2.85M and planned to remodel the structure for the needed new police facility.

Dominion Development Resources, LLC (DDR) was selected to provide the architectural, engineering, and interior design services necessary to renovate the purchased building into an appropriate new police headquarters.

DDR has completed the final phase of the design and provided the Town with the design and construction cost estimates. Council, at their meeting on July 14, 2009 authorized the project to be put out to bid, with proposals to be presented to Council at the August 11 meeting.

Financing for the project has been planned to be obtained after the construction bids were received by Council at the August meeting. It has been anticipated that the financing will be obtained via the same process that was utilized for the bond refinancing which occurred in May of 2009 (i.e. a Bank Qualified Private Placement).

The sequence of events includes Town Council, authorizing Davenport & Company LLC to solicit competitive proposals for the financing from banking institutions. A public hearing to authorize the financing will be required. It is anticipated that Town Council will authorize for the hearing to occur at the September meeting.

Davenport will return to Town Council at the September meeting with the results of the bidding process and a recommended funding provider. After Town Council formally approves the financing at the September meeting, loan closing on the financing would occur within a few weeks. The final construction contract can be signed immediately after loan closing occurs. (A copy of the presentation from the financial advisor is filed with the meeting packet.)

The estimated time line for the remainder project is as follows:

- Construction bids received on August 6
- Staff evaluates bids and makes a recommendation to council for approval at the August 11 meeting
- Council approves lowest responsible bidder, selecting a construction firm at the August 11 meeting and authorizes staff to prepare a contract
- Council authorizes financial advisors to go out to bid for financing at the August 11 meeting

- Council approves the bids for financing at the September 8 meeting and authorizes closing of the loan and appropriation of the funds to the construction account
- Council at the September meeting approves the construction contract and authorizes it to be signed after the financing package is closed and funds appropriated
- \* Loan package is closed early September
- \* Construction contract is signed
- Construction begins mid to late September 2009
- Facility completed by mid-summer 2010

The financial impact to the Town is estimated as follows:

- Purchase of existing building 740 Old Brandy Road \$2.85M
- Base cost to renovate building 740 Old Brandy Road \$3,115,748
- Security Systems \$23.2K
- Design costs \$275K
- Furniture and equipment \$400K
- Miscellaneous \$10K
- Moving costs \$8.5K
- Survey and topographical information \$0

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 Total Estimated Financial Impact \$6,682,448

It is recommended that Council authorize Davenport & Company LLC, the Town's Financial Advisors, to solicit bids for financing of the new police facility on Old Brandy Road.

Mr. David Rose, Davenport & Company representative, reviewed cash flow considerations with council and stated no additional revenue would be needed to fund debt service on the Police Station in FY10; depending on the final interest rate received for the police station financing, some additional on-going revenue may be needed for debt service in FY11 and FY12.

Council Member Coleman moved, Council Member Snider seconded, to authorize Davenport & Company LLC, the Town's Financial Advisors, to solicit bids for financing of the new police facility on Old Brandy Road.

The motion carried by voice vote (8-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Snider, Yowell; Nay- None; Absent-Risner).

**REPORTS & RECOMMENDATIONS FROM TOWN ADMINISTRATION** - none

**TOWN MANAGER'S MONTHLY REPORT:** Council received the report.

**Council Retreat:** Mayor Rimeikis announced that council may be holding a fall retreat in conjunction with the annual VML Conference. Details will be finalized in the coming weeks.

**COMMUNICATION & CORRESPONDENCE** - none

**ADJOURNMENT:** Council adjourned at 8:35 p.m.

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 Clerk

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 Mayor