

Regular Meeting

County Board of
Supervisors Room
September 8, 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, James C. Risner, 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.

AGENDA APPROVAL

Council Member Jenkins moved, Council Member Risner seconded, approval of the agenda as presented. The motion carried by unanimous voice vote (9-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay-None; Absent-None).

CLOSED SESSION

Vice Mayor Yowell moved, Council Member Risner seconded, council enter closed session to discuss specifically named individuals being considered for the position of Director of Planning & Community Development and for appointment to authorities, boards, and commissions (specifically Tourism Advisory Committee, Joint Board of Zoning Appeals, Veterans Recognition Committee, Culpeper Cable Commission, and Economic Development Advisory Committee) and to discuss the annual performance evaluation of the town clerk pursuant to Code of Virginia Section 2.2-3711(A)(1) and to discuss or consult with legal counsel and/or staff on actual litigation involving former police officer William C. Barnes, III, and actual litigation involving the Town of Culpeper, defendant, and Newhard and Casella, plaintiffs pursuant to Code of Virginia Section 2.2-3711(A)(7).

The motion carried by unanimous voice vote (9-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay-None; Absent-None).

Council entered closed session at 6:04 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: (8-1) - Aye: duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay: None; Absent from vote: Coleman.

RECESS: Council recessed at 6:42 p.m.

OPEN SESSION

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

Council Member Olinger lead the Pledge of Allegiance.

CONSENT AGENDA

On motion of Council Member Olinger, seconded by Council Member Risner, the items listed below were approved by the following roll call vote: (9-0 - Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay-None; Absent - None.

a. **R/R Re: Sale of Surplus Generator:** Council approved the sale of the surplus generator unit #2 for \$90,000 and authorized the town manager to execute a sales contract with Sam Lawton on behalf of the Town of Culpeper.

b. **R/R Re: Engineering Services for Risk Management Plan Required Update:** Council authorized the town manager or his designee to enter into a sole source contract with Draper Aden Associates for engineering services for a lump sum amount of \$5,500 from funds available in Line Item 3700-5216, Engineering Services, to complete the required resubmission of the Risk Management Plan and authorizes the mayor and town clerk to execute the resolution.

c. **R/R Re: Atmospheric Repairs to WPCF Influent Pump Station #1:** Council authorized the town manager to approve transferring \$20,000 of the funds available in 42-9990-9990 Wastewater Capital Contingency Unreserved into Operations 4700-5238 R&M-Infrastructure to complete the atmospheric repairs to WPCF Influent Pump Station #1.

d. **R/R Re: FY2010 DMV Highway Safety Grant:** Council authorized the acceptance of this grant for the purchase of a Lidar (radar) unit and the over-time enforcement as awarded and approved in the grant.

e. **R/R Re: Winter Chemical Bids:** Council accepted the lowest respective bids from Eastern Salt of \$76.50 per ton for bulk rock salt, from Harvey Salt Company of \$379.20 per ton for flaked magnesium chloride, and from Walker Sand & Stone of \$15.00 per ton for Grade B sand and authorize the Town Manager to make the purchases as necessary.

f. **R/R Re: New Police Station—Award of Contract for Construction:** Council approved the prepared contract with C.L. Lewis & Co. in the amount of \$1,549,017, contingent upon the financing package being closed and funds being deposited and appropriated in the Town's general fund capital account (police station construction), and authorized the town manager to sign the document.

g. **R/R Re: FY2010 Budget Adjustments for FY2009 Encumbrances—Funds 100, 300, 320, 400, 500, 520, 600 & 800:** Council approved the budget adjustments as proposed and authorized the town manager or his designee to make the necessary FY2010 budget adjustments.

h. **Treasurer's Report:** Council approved the treasurer's report reflecting a balance of \$32,567,020 and bills paid listings.

i. **Minutes of Previous Meetings:** Council approved the minutes of the regular meeting of August 11 and special meeting on September 1, 2009 as presented.

SPECIAL ITEMS & RECOGNITIONS

Employee of the Month

a. **Presentation to Council from the Soap Box Derby Representatives:** Tony Troilo, President of Soap Box Derby Committee, Mrs. Frankie Gilmore, and other members, drivers, and supporters of the Soap Box Derby presented Council with the Stan Karas Award for 2009 for their appreciation of the Town of Culpeper's support for the derby since 2003.

b. **Employee of the Month Recognition:** Deputy Treasurer Jennifer Landreth was selected as Employee of the Month for July 2009.

c. **250th Anniversary Oversight Committee Report:** Co-Chairman T.I. Martin highlighted the upcoming events for the anniversary celebration weekend of September 19-20, 2009, and invited everyone to attend.

COMMENTS & CORRESPONDENCE...FROM THE AUDIENCE

a. **George Bryson,** Rixeyville Road resident, addressed council on his continued request to obtain full information on the dig at the Burgandine House. Mayor Rimeikis requested Mr. Muzzy research the files and provide Mr. Bryson any information the town has on this matter.

UNFINISHED BUSINESS/GENERAL ORDERS

Closed Session Items

Vice Mayor Yowell moved, Council Member Risner seconded, to authorize the town manager to hire a planning director at a salary not to exceed \$88,500.

The motion carried by unanimous voice vote (9-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay-None; Absent-None).

NEW BUSINESS

Receipt of Bids—Cable Television Services Franchise

INVITATION TO BID ON A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, INSTALL, MAINTAIN, EXTEND AND OPERATE A CABLE SERVICE OR SYSTEM WITHIN THE TOWN OF CULPEPER

Notice is hereby given, pursuant to §§ 15.2-2101 and 15.2-2108.19 *et. seq.* of the Code of Virginia, as amended, and in the mode prescribed by the laws of the Commonwealth of Virginia, that the Council of the Town of Culpeper, Virginia, a Municipal Corporation of the Commonwealth of Virginia, invites bids on one or more cable television franchises to permit for a term of fifteen years the use of public rights-of-way within its corporate limits for delivery of cable television and other services. Bids shall be in writing and delivered to Town Council, 302 North Main Street, Culpeper, Virginia 22701 on September 8, 2009 at 7:00 p.m., local time, in open session of Council to the presiding officer of Council

The proposed Franchise would grant the successful service provider or providers a franchise, privilege, lease or right to use certain public property located within the corporate limits of the Town of Culpeper for a term of fifteen years to construct, install, maintain, and operate necessary equipment and facilities, for cable television service. The proposed Franchise requires the successful bidder to offer PEG access channels, PEG Capital Fee, collect a communications sales and use tax, provide at no cost certain cable service to certain municipal sites, agree to certain customer service standards, make certain reports and records available to the Town, maintain certain insurance, post a performance bond, provide the Town with indemnification and provide for enforcement for noncompliance and liquidated damages therefore. A copy of the full text of the ordinance is on file in the Office of the Town Clerk, 400 South Main Street, Suite 101, Culpeper, Virginia 22701.

The Town reserves the right to reject any and all bids.

Council received one bid from Verizon Virginia Inc. to provide cable television services (FIOS) to residents of the Town.

Mayor Rimeikis closed receipt of bids.

R/R Re: Cable Television Service Franchise

Town Attorney Bendall stated the proposed Franchise would grant the successful service provider or providers a franchise, privilege, lease or right to use certain public property located within the corporate limits of the Town of Culpeper for a term of fifteen (15) years to construct, install, maintain, and operate necessary equipment and facilities, for cable television service. The proposed Franchise requires the successful bidder to offer PEG access channels, PEG Capital Fee, collect a communications sales and use tax, provide at no cost certain cable service to certain municipal sites, agree to certain customer service standards, make certain reports and records available to the Town, maintain certain insurance, post a performance bond, provide the Town with indemnification and provide for enforcement for noncompliance and liquidated damages therefore.

A copy of the full text of the ordinance was provided in the meeting packet together with a Synopsis of its content.

Verizon has agreed to comply with all applicable requirements of the provisions of Virginia's "Communications Sales and Use Tax Act," Section 58.1-645, et seq. of the Code of Virginia in its current form and as it may be amended. **This requires a payment of five percent (5%) of the gross revenues for Cable Services (not telephone) from Verizon to the Town.** The tax is itemized and collected from cable subscribers. **This tax equals that which is collected from your current cable provider.**

Verizon has also agreed to **pay the Town a PEG Capital Grant Surcharge Fee (again recovered from subscribers) in the amount of fifteen cents (\$0.15) per month, per subscriber to Verizon's Basic Service Tier.** The PEG Surcharge Fee shall be used only by the Town to support the capital costs.

Verizon has agreed to **provide one PEG (Public, Education and Government) channel and, initially, up to two (2) additional PEG Access Channels, subject to certain conditions.**

Verizon has **agreed to provide, without charge to the Town, one service outlet activated for Basic Service at eight (8) locations chosen by the Town.**

Verizon has agreed to provide the Town, initially, with two points of origination for programming broadcast (**origination location to be 105 North Main Street and an auxiliary path fiber connection at 302 North Main Street**) with an additional point (at one of the 3 other requested locations) to be made available within 180 days of the request therefore; **however, the Town may not make the request any sooner than 180 days from the Service Date.**

Approval of the franchise would result in the Town receiving a payment of five percent (5%) of the gross revenues for Cable Services (not telephone) from Verizon to the Town. The tax is itemized and collected from cable subscribers; this tax equals that which is collected from the current cable provider.

Verizon has also agreed to pay the Town a PEG Capital Grant Surcharge Fee (again recovered from subscribers) in the amount of fifteen cents (\$0.15) per month, per subscriber to Verizon's Basic Service Tier. The PEG Surcharge Fee shall be used only by the Town to support the capital costs.

It was recommended that council approve the cable television service franchise ordinance and authorizes the mayor and town clerk to execute the franchise with Verizon for a period of fifteen (15) years.

Council Member Coleman moved, Council Member Risner seconded, that council approve the report and recommendation as presented.

The motion carried by unanimous voice vote (9-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay-None; Absent-None).

PUBLIC HEARINGS

Proposed Issuance of General Obligation Public Improvement Bonds for Capital Projects for Governmental Purposes--New Police Station

Notice is hereby given that the Town Council of the Town of Culpeper, Virginia, (the "Town Council") will hold a public hearing on the adoption of a proposed resolution authorizing the issuance by the Town of Culpeper, Virginia (the "Town"), of general obligation public improvement bonds and pledging the full faith and credit of the Town thereto (the "Bonds"). The Bonds may be issued in one of more series at one time or from time to time and will be in an aggregate principal amount not to exceed \$7,500,000. The proceeds of the Bonds will be used to (i) finance a new police station and related costs, (ii) pay capitalized interest on the Bonds and (iii) pay the costs of issuing the bonds.

The public hearing, which may be continued or adjourned, will be held at 7:00 p.m. on Tuesday, September 8, 2009, before the Town Council at the County Board of Supervisors' meeting room located at 302 North Main Street, Culpeper, Virginia 22701. Any person interested in the issuance of the Bonds or the purposes for which they are being issued may appear at the hearing and present his or her views.

The public hearing is being held at a facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility should contact the Town Clerk at 400 South Main Street, Culpeper, Virginia, (540) 829-8240.

Kyle Laux, Davenport & Company Financial Advisors presented the results of the competitive RFP process for Police Station Financing and reported that it was their recommendation for the Town to select Carter Bank's 15 year option for the police station financing due to the following:

- It meets the town's goals and objectives for the Police Station Financing;
- The interest rate (4.75%) is 25 Basis Points below the estimate used for initial planning. This would result in a reduced cash-flow impact versus the original planning;
- Carter Bank provides complete prepayment flexibility. This would allow the Town to take advantage of potential debt service savings in the future by refinancing the loan;
- The results of the breakeven analysis between BB&T's 20 year fixed rate option and Carter Bank's 15 year option were favorable;
- There are no closing costs or up-front bank fees with Carter Bank.

Mr. Laux also pointed out that they were comfortable in that payments would be locked in and lower for the 15 year period, total ability to refinance and/or prepay at any time over the 15 years. This financing will not affect the budget this year or next. The first impact would be with the 2012 budget estimating a 2.2 cent real estate tax increase.

Mayor Rimeikis opened the public hearing.

There being no one to address council, Mayor Rimeikis closed the public hearing.

Resolution Authorizing the Issuance of \$7.5 million in General Obligation Public Improvement Bonds for Construction of Police Building

Town Manager Muzzy reported that the Town of Culpeper and the Police Department had been exploring options for a new police headquarters for several years. In 2008 the Town purchased an existing building located at 740 Old Brandy Road for \$2.85M with plans 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 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 and low bid proposals were presented to Council at the August 11 meeting. Council authorized staff to prepare a contract with CL Lewis, the recommended low bidder, to be presented to Council for approval at the September 8 meeting.

Financing for the project has been planned to be obtained after the construction bids were received and approved by Council. At the August meeting, Council authorized Davenport & Company LLC, the Town's Financial Advisors, to solicit competitive proposals for the financing of the project from banking institutions. Davenport & Company was directed to return to Council at the September 8 meeting for presentation and approval of the optimal bid, with authorization to close the loan. A public hearing to authorize the financing will be required and has been advertised for the September 8 Council meeting. 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). After Town Council formally approves the financing at the September 8 meeting, the loan closing can occur within a few weeks. The final construction contract can be signed immediately after loan closing occurs. A copy of the presentation that Kyle Laux, the Town of Culpeper's financial advisor, will be making is attached.

Subsequently to the committee meeting, Steve Johnson, the Town's Bond Attorney and Kyle Laux, the Town's Financial Advisor, assembled the recommended financing package item (previously entitled R/R Re: Financing Plan for New Police Station when considered and approved by the Finance, Personnel, Technology, & Ordinance Committee on 09-01-09) into final form and produced a resolution, which is the vehicle to accomplish the Committee's recommended actions. The resolution and recommendation contain the Committee's recommended actions.

The financing package for the purchase, renovation, and construction of the new police building will provide the Town \$5,629,000 to cover all related expenses (\$5,477,017 for direct project costs and \$151,983 for issuance expenses).

PROJECT SCHEDULE

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

- 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 8 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 to mid September
- * Construction contract is signed
- Construction begins mid to late September 2009
- Facility completed by early to mid summer 2010

PROJECT BUDGET

Purchase of existing building: \$2,850,000

Base Building Renovation: \$1,549,017

Security Systems: \$ 135,000

Design Costs: \$ 275,000

Furniture & Equipment: \$ 295,000

Miscellaneous: \$ 150,000

Moving Costs: \$ 8,500

Re-Roofing: \$ 234,500

Total: \$5,497,017

It is recommended that Council adopt the resolution authorizing the Town to borrow up to \$5,629,000 from Carter Bank and authorize the mayor and town clerk to execute the necessary documents.

Council Member Coleman moved, Council Member Snider seconded, to approve the report and recommendation as presented.

The motion carried by unanimous voice vote (9-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay-None; Absent-None).

FY2010 Budget Amendment for Police Station Financing Plan

PUBLIC HEARING NOTICE

**Fiscal Year 2010 Budget Amendment
Tuesday, September 8, 2009 – 7:00 p.m.**

The Town of Culpeper is considering the amendment of its Fiscal Year 2010 General Fund Capital budget in an amount not to exceed \$5,500,000. The source of these funds is a recently completed financing bid for the purpose of securing funding for construction of a new police building and related expenses and the repayment of intra-fund transfers and loans. In accordance with Virginia Code Section 15.2-2507, the Town Council will hold a public hearing on Tuesday, September 8, 2009, at 7:00 PM, in the Culpeper County Board Room, located at 302 North Main Street, Culpeper, VA to receive public input and comments on the proposed adjustments.

The full text of the proposed amendment is available for review at the Town Manager's office at 400 S Main St, Suite 101, Culpeper, VA, Monday thru Friday, 8:00 a.m. to 5:00 p.m. For questions, please call Jeff Muzzy, Town Manager, at (540) 829-8250.

The public hearing is being held at a facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility should contact the Town Clerk at 400 S. Main St., Culpeper, (540) 829-8240.

Mayor Rimeikis opened the public hearing.

There being no one to address council, Mayor Rimeikis closed the public hearing.

FY2010 Budget Amendment for Police Station Financing

Town Manager Muzzy presented the report and recommendation stating the financing package for the purchase, renovation and construction of the new police building, will provide the Town \$5,629,000 to cover all related expenses (\$5,477,017 for direct project costs and \$131,983 for issuance expenses). Virginia Code Section 15.2- 2507 states that an amendment exceeding 1% of the total budget requires a public hearing. In order to appropriate the funds in to the correct Town of Culpeper budget account, a public hearing has been advertised for the Council meeting on September 8 to amend the FY2010 budget for an amount not to exceed \$5.5. This budget amendment will allow for the appropriation of the direct project costs (\$5,477,017). Another Public hearing will be required at a future meeting to appropriate the issuance costs (\$131,983) into appropriate accounts. This request will be presented to the Finance Committee for their recommendation at their next meeting.

The FY2010 General Fund Capital budget will increase in the amount of \$5,477,017. The funds will be appropriated to General Fund Capital budget into the line item for the new police building.

It is recommended that council approve the \$5,477,017 budget amendment to the fiscal year 2010 general fund capital budget and appropriates the funds for the new police building to General Fund Capital, account number 120-9280-5216.

Town Manager Muzzy clarified that the correct amount was \$5,497,017 and apologized for the typo.

Council Member Snider moved, Council Member Ryan seconded, to approve the report and recommendation with the correct amount of \$5,497,017.

The motion carried by unanimous voice vote (9-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay-None; Absent-None).

Case TZ-001-2009: Request by Clore Family LLC to rezone 4.3659 acres from R-1 to C-3 located on Madison Road

**NOTICE OF PUBLIC HEARING
Town of Culpeper Town Council**

Please take notice that on *Tuesday, September 08, 2009*, in the Culpeper County Administration Building, Board of Supervisor's Room, 302 N. Main Street, at 7:00 p.m., the Town Council will consider the following rezoning case:

PUBLIC HEARING -

Case TZ-001-2009: Request by the Clore Family, LLC, Property Owner, to rezone 4.3659 acres, from Residential-1 to Commercial-3, located on Madison Road (Route 29 Business).

The proffer statement and concept plans also include the remaining property residue of approximately 10.88, already zoned Commercial-3. The applicant has submitted a Revised Proffer Statement, dated August 19, 2009, which offers four (4) concept development plans; plans show between 68,000 and 153,000 square feet of commercial development and a limit of 182 residential dwelling units. The property is identified as Tax parcel 50, portions and/or parcels 15A, 15, 16 & 18, East Fairfax Magisterial District.

Under the existing Residential-1 Zoning District Classification, single family dwellings are allowed with a minimum lot area of 10,000 sq. ft. Under the Commercial-3 Zoning District Classification, high density residential (up to 20 units per acre) and commercial developments are allowed.

The public hearing is being held at a facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility should contact the Town of Culpeper Planning & Community Development Department, 400 S. Main Street, Suite 301, Culpeper, Virginia 22701.

Maxie Brown, Zoning Administrator, presented the request by the Clore Family, LLC, property owner, to rezone 4.3659 acres, from Residential-1 to Commercial-3, located on Madison Road (Route 29 Business).

Zoning Administrator Brown indicated she had not had an opportunity to review the revised proffer statement dated September 9, 2009, presented at 2 p.m. that afternoon, which withdrew concept plan 4 (150 apartments) and specified certain buildings shall front from U. S. Route 29. However, it appeared that based on initial review that concept plan #4 was no longer relevant, certain buildings on the remaining concept plans 1, 2, and 3 will front on Route 29 Business, and the total number of residential units is now 50 that will be allowed to be over the first floor commercial buildings. The property is identified as Tax parcel 50, portions and/or parcels 15A, 15, 16 & 18, East Fairfax Magisterial District.

Under the existing Residential-1 Zoning District Classification, single family dwellings are allowed with a minimum lot area of 10,000 sq. ft. Under the Commercial-3 Zoning District Classification, high density residential (up to 20 units per acre) and commercial developments are allowed.

Ms. Brown stated that the Planning Commission held a public hearing on June 9, 2009 and tabled the request to allow the applicant to address issues and comments. They held numerous meetings and reviewed five (5) proffer statements in order to identify and resolve issues.

Ms. Brown reviewed current issues with the request:

1. Requirement and timing for a traffic impact analysis and traffic signal warrant study as required under Chapter 527 of VDOT regulations. The rezoning of the smaller parcel (4 + acres) does not trigger the threshold requirements for a traffic impact analysis prior to a site plan submission. However, VDOT specified in their memo that language should be provided in the proffer statement which requires the applicant to submit these items at the time of the first site plan submission.
2. Comprehensive Plan - specifically the future land use map, shows the 4 + acres designated as low density residential, the remaining 10 + acres remains general commercial. If the council approves the rezoning, the Comprehensive Plan should be amended to acknowledge the rezoning.
3. Cash Proffer Guidelines – state law allows the jurisdiction flexibility to mitigate the impact associated with any increased density over what is allowed “by right”. According to the applicant’s engineer, approximately 182 residential units are allowed by right, giving the existing zoning of R-1 and C-3.
4. Zeuswyn Drive Road Improvements – the applicants proffer statement indicates a portion of Zeuswyn Drive would be improved and dedicated as part of the proposal. It currently appears that the town has no knowledge of any legal documents that would prevent the applicant from dedicating it, however, if there are private property rights impacted by this rezoning, then it becomes a legal matter between those parties.

The Planning Commission held their last meeting on August 18, 2009 and is recommending approval (5-0) of this request.

Council Member Jenkins asked how the Clore family would dedicate a portion of Zeuswyn Drive. Zoning Administrator Brown stated it is currently a private street and as part of the site plan submission, the applicant would be required to show improvement and dedication of Zeuswyn Drive to Town standards and bonding for acceptance into the town system.

Attorney Bob Hudson, representing Clore Family LLC, the applicant, stated the Clore family inherited this property, and Mr. Clore was instrumental in the creation of Culpeper Regional Hospital, T. I. Martin Airport, as well as other landmarks around the community. Comments have implied this rezoning request was a proper fit. The property was rezoned in 1975, and in 1993, the Clore family donated land to the Country Club for a golf club expansion.

Mr. Hudson read the agreement as recorded in the deed indicating the Country Club would have no interest in the Clores remaining land or its use whether or not it is subsequently divided; if subsequently divided, it shall have no interest in the method of division (copy of the deed filed with meeting packet).

Mr. Hudson stated in 1994, VDOT improved the interchange and the Clore’s built Zeuswyn Drive the way it currently is today. Zeuswyn Drive is currently a private street but if rezoned it would become a public street. There are various ridge owners that have access by right-of-way, but the land is owned by the Clores and an agreement with the land owners allowing that access was created (copy filed with meeting packet).

Mr. Hudson commented there were a number of benefits for this rezoning and requested council approve this request.

Council Member Olinger asked why there was no access from Route 29 Business. Mr. Hudson replied that in the 1994, VDOT limited access with the new interchange, and a recent memo from VDOT implied there would be no access from Business 29.

Council Member Ryan asked if an access road could be installed in front of the buildings. Mr. Hudson replied there was a possibility of wetlands and DEQ would not grant limited access. Mr. Ryan asked how far off the road the buildings would be built and how deliveries would be made. Mr. Hudson showed on a map where that would take place as well as the areas that would be screened.

Mayor Rimeikis opened the public hearing.

Attorney John Bennett, representing concerned residents of the rezoning request, commented on issues of concern they had with the rezoning request. He stated the following

- Currently, there is 10.88 acres zoned C-3 commercial fronting on Route 29 which was a part of the 1975 Clore rezoning of 42 acres with no strings attached.
- He spoke with people who were approached by the applicant to write letters of support for the rezoning who thought they were supporting commercial development on the corner property.
- The case before council does not concern the concept or principle of commercial development on the corner but rather particular aspects of extending that commercial development over a strip of land that would have negative impacts upon an important amenity of the community.
- The golf course was important to the members, residents, and children of the community and the economic viability and business.
- It is important to a community to provide a stable work force and amenities to attract and retain good employees and management.
- No one was opposed to the commercial development on the corner, just particular points related to the expansion of it that seem to not make sense.
- When the 1994 the interchange went in limiting access for a portion of Route 29, the access for the homes for the property became Zeuswyn Drive at that time.
- That feature was already in existence and property owners were told it was put there along with a residential buffer to protect the golf course and homes from an intensive commercial use. There would be negative impacts if changed today.

He reiterated that they were in support of commercial development on the corner; they are opposed to additional traffic on Zeuswyn Drive and are mindful that adjustments may have to be made.

- Numerous attempts have been made to meet with the Clores or their representative, but no response has been received.
- A traffic impact analysis should be done as part of a rezoning request.
- He was not sure about DEQ preventing the building of an access road and implied lot lines and zoning lines were not related.
- He requested council give the applicant an opportunity to resubmit revised plans within 60 days with an entrance on Route 29 and that land owners and other interested parties be allowed to participate in that negotiating process with VDOT.

Mr. Tom Boyd, resident of 750 Zeuswyn Drive, stated that a right in/right out only would be a good way to serve this property; Comstock provided a design with installing a round-a-bout that would give access to the other parcels. He felt there was no rationale for using the private right of way and turning it into a public street.

Dr. Benjamin F. Allen, Zeuswyn property owner, stated good points were brought out this evening. This property was rezoned 34 years ago and nothing has been done with it; when he purchased his home it was explained to him by Mr. Willis that the plan was that housing would be in the middle and to the left. He asked Mr. Kirk from Culpeper Regional Hospital why he supported making Zeuswyn Drive a major thoroughfare, and Mr. Kirk replied that it was presented to him to have more commercial land. Dr. Allen believed that the rezoning was just an easier way to get access on Zeuswyn Drive.

Dr. George Stergis, commented that he rides his bike and occasionally walks to work and sees the difficulty ambulances and other vehicles have to get over to the hospital so traffic planning is very important in that area.

Mayor Rimeikis closed the public hearing.

Mr. Hudson gave closing remarks.

Council Member Risner commented council needed to focus on the legal documents provided to them this evening.

Case TZ-001-2009: Request by Clore Family LLC to rezone 4.3659 acres from R-1 to C-3 located on Madison Road, subject to a Revised Proffer Statement dated August 19, 2009

Maxie Brown, Zoning Administrator, stated the applicant seeks to rezone 4.3659 acres to construct a mixed-use project, utilizing four (4) concept plans, which show the development of between 68,000 to 153,000 square feet of commercial and up to 182 multifamily family units. The applicant has offered a Revised Proffer Statement, which offers transportation improvements and provides for a traffic impact analysis, including a traffic signal warrant study. The proffer statement also restricts inappropriate land uses and offers building elevation drawings and includes other amenities. No cash proffers are offered with the rezoning proposal, as the number of proposed units does not exceed the number of by-right units allowed under the existing zoning classifications.

If approved, the Town would receive zoning fees, tap fees, and utility fees generated from the new development. In addition, the proposal would increase the Town's tax base and provide employment opportunities.

Numerous residents and citizens attended the public hearing; five residents spoke in opposition to the request.

Following its public hearing on August 18, 2009, the Planning Commission voted 5-0 to recommend approval of this request, subject to a Revised Proffer Statement which limits the total number of residential housing units to 182. The Revised Proffer Statement, dated August 19, 2009 (included in the Case File) reflects this change.

A revised proffer statement dated September 9, 2009 was presented to council withdrawing Concept Plan 4 (150 apartments) and specifying certain buildings shall front from U. S 29 Business.

Council Member Snider stated he would like to send this item back to the Planning Commission. He was concerned with the rezoning application, the traffic impact analysis, the number of residential units, buffers, and the late submission of the amended proffer statement.

Council Member Snider moved, Council Member Jenkins seconded, to send this item back to the Planning Commission.

Mayor Rimeikis indicated there would need to be specific recommendations or guidance to the Planning Commission for their discussion.

Council Member Jenkins asked if the property was rezoned, how the town would control the size of the buildings size and height. Those were concerns he would like clarified before coming back to council.

Council Member Snider agreed and stated that he was pleased to see the number of residential units proffered down but had issues with building size, building placement, esthetics, and buffers.

Council Member Risner commented it was interesting that the Country Club had not commented on the rezoning throughout this process but felt the concerns addressed this evening was a buffer other than commercial on the residential side. He also felt the number of access points for Zeuswyn Drive should be reviewed as well as the amount of traffic the project would generate.

Council Member Ryan stated the Country Club would not be taking a position on the rezoning but indicated they would like more buffers.

Council Member Risner suggested meeting jointly with the Planning Commission so that all the concerns could be addressed rather than just sending it back “for review”.

Mayor Rimeikis agreed that a joint meeting would be beneficial to clarify the issues such as access from Route 29, buffering, elevations and the gateway.

Council Member Snider moved, Council Member Jenkins seconded, to refer this item back to the Planning Commission for discussion at a joint meeting with council no later than 60 calendar days from September 8 to discuss the following issues:

- Transportation impact
- Access points
- Residential units
- Buffering
- Etc.

The motion carried by unanimous voice vote (9-0—Aye-Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell; Nay- none; Absent-none).

Mayor Rimeikis recessed the meeting at 9:10 p.m. and excused Council Member Coleman from the meeting.

Mayor Rimeikis reconvened the meeting at 9:14 p.m.

REPORTS & RECOMMENDATIONS FROM AUTHORITIES, BOARDS, & COMMISSIONS -

None

REPORTS & RECOMMENDATIONS FROM COUNCIL COMMITTEES

LIGHT & POWER AND WATER & WASTEWATER COMMITTEE

Amended & Restated Power Sales Contract with Virginia Municipal Electric Association (VMEA)

#1

Town Manager Muzzy presented the report and recommendation stating for nearly two years, VMEA has been in search of and in negotiations for a new wholesale power contract. After all options were investigated it was determined that the most efficient and economical course of action would be to amend and restate the existing power contract with Virginia Electric and Power Co. (VEPCO) which expires December 31, 2010. At its monthly board meeting on August 13, 2009 the VMEA board voted to approve the negotiated contract with VEPCO.

The resulting contract is a 20 year, all requirements contract and will insure that any future load growth among the VMEA members will be accommodated.

All VMEA members, which include the Town of Culpeper, Town of Blackstone, Town of Elkton, City of Franklin, City of Harrisonburg, City of Manassas and the Town of Wakefield have been involved in the negotiations and are requested to review and approve the contract between the member and VMEA no later than 60 days from the date the contract between VMEA and VEPCO was signed which was August 13, 2009. It is expected that all VMEA members will approve their respective contracts with VMEA.

The Light & Power/ Water-Wastewater committee has been frequently updated throughout the negotiation process and at the May 26, 2009 meeting the committee was given in open session an overview presentation of the new power contract by Mr. Chris Dawson, GDS Associates, Atlanta, the VMEA consultant handling negotiations. The presentation is attached and we are prepared to provide Town Council with a brief overview.

The financial impact will be an estimated 10-15% increase to the wholesale purchased power costs presently paid with the existing contract. The department has been preparing for this increase in costs by slowly increasing the retail rates for the past two years with the goal of reducing the shock of one large retail rate increase beginning in 2011. With the development of the FY09 budget a 3% increase was implemented and with the FY10 budget a 5% increase was implemented. It is projected that an additional rate increase of 2% to 7% will be required with the FY11 budget depending on the projected power costs and with no required increase to our operating budget. An attempt has also been made beginning with the FY09 budget to provide for a rate stabilization fund. A minimal amount has been, and is projected to be, collected in this fund as we also attempt to rebuild the Light & Power enterprise fund balance after several years of increased expenses caused by building infrastructure to new homes.

It is recommended that Council approve the Restated and Amended Power Sales Contract between VMEA and the Town of Culpeper and the resolution and authorizes the Mayor and Town Clerk to execute the documents.

Council Member Olinger moved, Council Member Jenkins seconded, to approve the report and recommendation as presented.

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

PUBLIC SAFETY, PUBLIC WORKS, PLANNING & COMMUNITY DEVELOPMENT COMMITTEE

Donations to Wine Street Memorial Park

Continuing with the gifting program for Wine Street Memorial Park, these individuals and groups wish to donate the following items:

Donor:	In Honor/Memory Of:	Donated Item:	Donated Amount:
Anonymous donations from the Museum of Culpeper History	All veterans of WWII and the Korean Conflict	Funds toward a central veteran's monument	\$ 42.00
Totals:			\$ 42.00

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 \$1,000.00, 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.

The current donations and requests will offset the total cost of the project by \$42. To date, the Town has accepted \$66,382.28 in donations for this park.

It is recommended that Council accept the donations (\$42) for the central veteran’s monument from the Museum of Culpeper History.

Council Member duFrane moved, Council Member Ryan seconded to approve the report and recommendation as presented.

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

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 wish to donate the following items to offset the costs of the Town’s 250th Anniversary Celebration:

Donor:	Donated Item:	Donated Amount:
Today's Country 103.1 WJMA , 105.5 SAM.FM, and America's Best Music 1490 & 1340	Radio and website advertising	Valued at \$3500+
Martin’s Food Markets		\$2500
Stems ~n~ Stones	Event planning services, decorations, door prizes, flowers	Valued at \$5255
Kay & Tom Huggard		\$250
Culpeper Star-Exponent	Newspaper Advertising, sponsorship of games in the Park	Valued at \$5040
Dominique’s Catering	Catering Services	Valued at \$5520
Germann Community College – Daniel Center	\$500 off facility rental	Valued at \$500
Buffalo Wild Wings	Bar tending services for Ball	Valued at \$400
Maloney & Ward Insurance		\$500
Mr. & Mrs. Clark L. Glass		\$250

Young, Nicholas, Branner & Phillips, LLP		\$250
Fray, Hudson, Clark & Walker		\$250
Best Western		\$250
Culpeper Auto Parts		\$250
Dr. & Mrs. Peter Godfrey		\$250
Merchants Grocery, Inc.		\$100
Culpeper Dawn Lions Foundation, Inc.		\$250
Gayheart & Willis, P.C.		\$250
Mason Hutcheson		\$30
County Farm Service, Inc.		\$100
Mr. & Mrs. Angus Green		\$430
Alan's Photography Studio	Photography	Valued at \$100
	Cash	\$5910
	In-Kind	\$20,315
Totals:		\$26,225

The current donations will offset the total cost of the project by \$26,225. To date, the Town has accepted \$29,945 in cash and in-kind donations for this event.

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

It is recommended that council accept the donation from Today's Country 103.1 WJMA , 105.5 SAM.FM, and America's Best Music 1490 & 1340; Martin's Food Markets; Stems ~n~ Stones, Kay & Tom Huggard, Culpeper Star-Exponent, Dominique's Catering, Germanna Community College – Daniel Center, Buffalo Wild Wings, Maloney & Ward Insurance, Mr. & Mrs. Clark L. Glass, Young, Nicholas, Branner & Phillips, LLP, Fray, Hudson, Clark & Walker, Best Western, Culpeper Auto Parts, Dr. & Mrs. Peter Godfrey, Merchants Grocery, Inc., Culpeper Dawn Lions Foundation, Inc., Gayheart & Willis, P.C., Mason Hutcheson, County Farm Service, Inc., Mr. & Mrs. Angus Green, and Alan's Photography Studio.

Council Member Ryan moved, Council Member Snider seconded, to approve the report and recommendation as presented.

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

New Police Station Roof Replacement

Town Manager Muzzy presented the report and recommendation that stated the Town of Culpeper and the Police Department have been exploring options for a new police headquarters for several years. In 2008 the Town purchased an existing building located at 740 Old Brandy Road for \$2.85M with plans 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 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 and the low bid proposals were presented to Council at the August 11 meeting. Council approved the overall project budget and authorized staff to prepare a contract with CL Lewis, the recommended low bidder, to be presented to Council for approval at the September 8 meeting.

At the August 8 meeting, Council requested staff to gather additional information regarding the recommendation to replace the building roof. Town Staff has investigated the need for a new roof and feels strongly that the current roof, though minimally adequate in the short term, does not meet the needs of a long term (25 Year) completely renovated facility.

It is important to note that in order for the Town to have a firm estimate for the roof system the Town will need to engage the services of Dominion Development Resources, LLC (DDR) to develop drawings, written specifications, and bid documents for a quality long term roofing system. Town Staff is confident that the total cost of the roofing project will be under \$200,000. This anticipated cost has already been made part of the entire project cost of \$5,497,017.

At the August 8 meeting, staff presented information and a recommendation regarding the replacement of the roof as part of the construction project for the new police station. Council received the recommendation and requested staff to gather additional information regarding the replacement of the building roof. Town Staff has investigated the need for a new roof and feels strongly that the current roof, though minimally adequate in the short term, does not meet the needs for a long term (25 Year plus) renovated facility.

Staff in follow up investigation spoke to the installer of the original roof as well as consulted with other roofers as to the current situation. Staff has discovered that:

- the current roof was apparently not installed according to desired standards
- the installed membrane does not wrap the parapet walls creating an opportunity for leaks to occur
- the old roof was removed before the current roof was installed
- currently minor leaking of the roof has been experienced
- considerable ponding of water is occurring on the current flat roof
- a new roof would incorporate external sloping insulation which would eliminate the ponding water
- a new roof would eliminate the need for the spray on insulation currently being planned for under the existing roof, saving approximately \$32,000 to be put toward the replacement roof structure
- the installer of the old roof stated that he would transfer the existing warranty to the Town for a cost of \$1500
- the transferred warranty would give the Town assistance in patching membrane leaks but would not cover installation or under roof issues

It is important to note that in order for the Town to have a firm estimate for the roof system the Town will need to authorize the project architect, Dominion Development Resources, LLC (DDR) to develop drawings, written specifications, and bid documents for a quality long term roofing system. This anticipated cost is included in the total project budget of \$5,497,017.

Based on staffs investigation and consultation with experts in the field, staff has a preliminary tentative cost estimate.

- 30 year high quality roof \$160,000
- General Contractor fee of 15% \$24,000
- Architectural Fee \$8,545
- Total cost \$192,545 (minus \$32K for deduction of under the roof insulation)

Costs will be incurred in an amount not to exceed \$9,000 to have the scope of work provided.

It is recommended that Council authorize staff to engage the services of Dominion Development Resources, LLC (DDR) at a cost not to exceed \$9,000 to provide a scope of work for a new roofing system on the new police station building.

Council Member duFrane expressed an interest in repairing the existing roof.

Fritz Alderman, Engineer II, commented that Mosely Architects performed the evaluation on the roof and indicated that the roof would be good for 15 +/- years. Currently there is evidence the roof is already leaking due to the installation process not being done completely or correctly.

Council Member duFrane asked if the installer had been called back to repair the roof and Mr. Alderman replied that the installer had not been contacted to come back to fix or patch the roof. The cost of \$1,500 is simply to transfer the warranty.

Vice Mayor Yowell stated he had a hard time understanding the figure of \$200,000 for a roof on a building that was just repaired three (3) years ago.

Bob Anderson, owner of DDR stated if the warranty is transferred there would be seven (7) more years left. He recommended installing a new roof rather than patching the current one due to the fact that it will be a new facility and a better warranty and with the market being favorable with construction costs, it would be favorable to build a new roof. It will cost less now rather than waiting to install seven years from now.

Council Member Risner moved, Council Member Snider seconded, to approve the report and recommendation as presented.

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

Acceptance of Neighborhood Stabilization Grant

Town Manager Muzzy presented the report and recommendation stating that Council approved, at a special meeting on June 30, staff to submit a competitive, community improvement grant application for the NSP. Yesterday, the Department of Planning and Community Development (DHCD) announced the award of \$9.4 million in NSP funding. The Town of Culpeper was funded \$1.2 million. The other grant awards are as follows:

Grantee	Amount
Catholics for Housing, Prince William County	\$1,500,000
City of Chesapeake	\$1,500,000
Chesterfield County	\$ 500,000
Fauquier County	\$1,500,000
City of Franklin	\$ 400,000
Lynchburg Neighborhood Development Foundation	\$1,000,000
Pathways (Petersburg)	\$ 600,000
Virginia Beach Community Development Corporation	\$1,200,000

The Virginia Neighborhood Stabilization Program (NSP) was authorized under the *Housing and Economic Recovery Act of 2008*. The purpose of the program is to assist in the redevelopment of abandoned and foreclosed homes. The Town of Culpeper has received a planning grant under the NSP to identify neighborhoods that have been impacted by high foreclosure rates and potential income-eligible homebuyers to purchase these properties. The U.S. Congress passed this legislation to prevent the problems associated with high vacancy rates such as crime and lack of maintenance that can lead to the destabilization of neighborhoods.

As mentioned previously, the Town will implement the project through the following actions:

1. Acquire foreclosed homes in targeted neighborhoods at a minimum 1% discount below market value.
2. Rehabilitate properties, if needed, to bring them up to DHCD Housing Quality Standards.
3. Sell the properties to qualified homebuyers that have completed Housing and Urban Development (HUD) certified housing counseling and do not exceed 120% of Area Median Income for the Town of Culpeper. Properties will be sold at a 'break-even' price determined by the acquisition and rehabilitation costs.

Potential homebuyers of acquired properties must meet two eligibility requirements:

1. Completion of a HUD-certified housing counseling program. The Town of Culpeper has partnered with the Culpeper Community Development Corporation (CCDC) to provide housing counseling to interested and eligible buyers.
2. Have household earnings less than 120% of the area median income for Culpeper County as determined by HUD.

In the application, staff identified the neighborhoods within town limits that have the highest rates of foreclosure. The neighborhoods include Meadows of Culpeper, Lakeview, and Highpoint subdivisions. The grant seeks to achieve the acquisition, rehabilitation, and resale of eight (8) foreclosed residential properties in the Meadows of Culpeper, Lakeview, and Highpoint neighborhoods, which will benefit an estimated eight (8) households totaling thirty-two (32) low-to-moderate-to-middle income (LMMI) persons.

The Department of Planning and Community Development will administer the grant program with the assistance of K.W. Poore and Associates, Inc.

As this project has a relatively short timeline and it is necessary to begin implementation immediately, the first activity following Council's acceptance of the award will be to conduct an "NSP Boot Camp" with staff and the Management Team. This will tentatively occur in the next two weeks.

There is no match required for this project from the Town. Of the overall \$1,240,000 project budget, \$1,200,000 is NSP funds and \$40,000 comes from HOME (Housing Opportunities Made Equal) funds.

It is recommended that Council authorize the town manager to execute a contract for the NSP competitive grant with the Virginia Department of Housing and Community Development, totaling \$1,200,000 in grant funds and \$40,000 in HOME funds supplied by the CCDC for a total project cost of \$1,240,000, and to provide such additional information as may be required for its execution

Council Member Jenkins moved, Council Member Olinger seconded, to deny the report and recommendation as presented.

Council Member Jenkins stated there was no reason for government to be involved in the real estate business.

Council Member Risner stated he felt the program was a local government issue since it targets neighborhoods with a high rate of foreclosures. This is an opportunity to get people in those homes.

Vice Mayor Yowell asked what the benefits were for the town. Planner Hill replied that staff believed this program would stabilize and put families into vacant and blighted areas.

Council Member duFrane stated the financial impact was not clear as to the number of hours staff would be working on the project.

The motion failed by voice vote (3-5—Aye- duFrane, Jenkins, Ryan; Nay-Olinger, Rimeikis, Risner, Snider, Yowell; Absent-Coleman).

Council Member Snider moved, Council Member Risner seconded, to approve the report and recommendation as presented.

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

REPORTS & RECOMMENDATIONS FROM TOWN ADMINISTRATION - none

TOWN MANAGER'S MONTHLY REPORT: Council received the report and copies of the Town Manager's Annual Report were distributed.

COMMUNICATION & CORRESPONDENCE - none

ADJOURNMENT: Council adjourned at 10 p.m.

Clerk's Note: Council Member Steve Jenkins submitted his resignation from council effective September 8, 2009.

Clerk

Mayor