

## Regular Meeting

County Board Room  
August 12, 2008

The Council of the Town of Culpeper convened in regular session at 6:00 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; Thomas E. Huggard; Interim Town Manager, Chuck Stephenson, Town Engineer; Kimberly D. Allen, Town Clerk; Robert W. Bendall, Town Attorney and Lisa D. Hutcherson, Deputy Town Clerk. **Also Present for the 7 p.m. Session:** Neal Deane, Town Treasurer; Tonya Estes, Information Technology Manager; Beth Burns, Tourism Director; Robert H. Thornhill, Jr., Public Works Director; and Mark Bly, Light & Power Director.

### AGENDA APPROVAL

Councilmember Coleman moved, Councilmember Jenkins seconded, to approve the agenda with the addition of a discussion on skate park repairs, project update on the Route 522/Yowell Drive road improvements, update from the Town Attorney on pending lawsuit filed by Culpeper Star Exponent vs. the Town of Culpeper, and a status report on the Bluemont Concert Series Funding and the removal of the Report and Recommendation for Municipal Building Lease (third floor) from the agenda for further consideration by the committee and a report back to council and the special meeting minutes from July 24 and 28, 2008, as they were not finalized. The motion carried by the following voice vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

### CLOSED SESSION

Vice Mayor Yowell moved, Councilmember Coleman seconded, to enter closed session to discuss or consider specifically named individuals who have applied for positions on the Towns' authorities, boards, and commissions (specifically the Planning Commission, Economic Development Advisory Committee, and Parks & Recreation Commission and council representatives to the Culpeper Cable Commission and E991 Board) and to discuss the contract details for a prospective town manager, pursuant to Code of Virginia Section 2.2-3711(A)(1); to discuss or consider acquisition of publicly held real property regarding leased space in the Municipal Building pursuant to Code of Virginia Section 2.2-3711(A)(3); and to discuss and consult with staff and/or legal counsel regarding negotiating issues which may become subject to review by the Commission on Local Government relating to interjurisdictional cooperation, a possible boundary adjustment with Culpeper County and a proposed water and sewer agreements generally pursuant to Code of Virginia Section 2.2-3711(A)(7) and 15.2-2907(D).

The motion carried by the following voice vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: None (0); Absent: None (0). Council entered closed session at 6:08 p.m. Staff attending: Town Attorney Bendall, Town Engineer Stephenson, Consolidation Project Manager Dan Boring, and Public Information Officer Wally Bunker.

Council reconvened in open session at 7:05 p.m.

**Certificate of Closed Session:** Pursuant to Code of Virginia Section 2.2-3712, Mayor Rimeikis requested the Clerk poll the members 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 15.2-2907 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 following roll call was taken: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: None (0).

Council recessed at 7:05 p.m. and reconvened in open session at 7:10 p.m.

**PLEDGE OF ALLEGIANCE:** Councilmember Olinger led the Pledge of Allegiance.

### **CONSENT AGENDA**

Councilmember Risner moved, Councilmember Snider seconded, that Council approve the items listed below. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

- a. **R/R Re: Silting Problems at Lake Pelham:** Council authorized the interim town manager to implement a reduced scope dredging project utilizing in-house staffing to dredge the boat ramp landing area and the \$22,470
- b. **R/R Re: Depot Renovations:** Council rejected the bids for the depot renovations and authorized the interim town manager to have the necessary work completed utilizing different contractors with the lowest price for the individual components of the project using funds from account 4302-5230, general properties, to fund the needed maintenance and repairs.
- c. **R/R Re: Establishment of Civilian Analyst/Investigator Position for Police Department:** Council authorized the interim town manager or his designee to create a position of Civilian Analyst/Investigator on grade 11 of the Employee Classification Plan effective as of August 12, 2008.
- d. **R/R Re: Wayfinding Sign Plan—Purchase of Street Signs & Posts:** Council authorized the interim town manager to contract with Korman Signs Inc. in the amount of \$26,046.40 for the purchase of street signs and posts. Further, council authorized the interim town manager be authorized to make the necessary budget adjustments.
- e. **R/R Re: Municipal Building Lease (third floor):** Removed from the agenda. (This item will be further considered by the committee for a report back to council.)
- f. **R/R Re: List of Uncollectible & Delinquent Taxes:** Council authorized the treasurer to perform the following: relief of the \$2,176.95 liability of erroneous real estate tax assessments for tax year 2007; authority to list \$592.22 of real estate taxes as liens against the respective properties; authority to write-off personal property (\$6,032.87); and authority to write-off real estate taxes less than \$5 each (\$24.73).
- g. **R/R Re: Additional Appropriation of Funds for Overage in Fairview Cemetery Perpetual Care Fund Contribution:** Council authorized the interim town manager or his designee to appropriate funds in the amount of \$20,160 to line item (10-7108-6120) and increase the corresponding revenue (10-0000-4502) to cover the FY08 perpetual care contribution.
- h. **R/R Re: FY08 Contribution to Culpeper County Volunteer Fire Department:** Council authorized the interim town manager or his designee to make the necessary accounting adjustments increasing the revenue account, fire service allocation (10-0000-4755) and increasing the expenditure account, volunteer fire department contribution (10-3202-6110) by \$2,035.
- i. **R/R Re: Appropriation of Capitalized Interest for Debt Service:** Council authorized the interim town manager or his designee to appropriate funds in the amount of \$51,027 to debt service (10-9990-9607) from general fund contingency (12-9990-9990) to cover the FY08 capitalized interest cost of the debt issuance.
- j. **R/R Re: FY08 Budget Adjustments—Town Clerk Budget (1202):** Council authorized the transfer of \$7,676 from the general fund contingency account (12-9990-9990) to the town clerk's salaries line item (1202-5010) to balance the FY08 budget.
- k. **R/R Re: FY08 Budget Adjustments—Electoral Board Budget (1301):** Council authorized the transfer of \$2,054 from the general fund contingency account (12-9990-9990) to the electoral board part-time wages account (1301-5060) to balance the FY08 budget.
- l. **R/R Re: FY08 Budget Adjustments—General Properties Budget (4302):** Council authorized the transfer of \$22,864 from the general fund contingency (12-9990-9990) to general properties (4302) to cover the unanticipated maintenance and renovation expenses during FY08.

- m. **R/R Re: Establishment of Information Technology Specialist:** Council authorized the establishment of an Information Technology Specialist position at pay grade 17 with a starting salary of \$45,529 (including benefits), the interim town manager to advertise and fill this position as soon as possible, and to transfer \$45,529 from account 12-9990-9990 (general fund capital contingency) into the respective salary and benefits categories to account 1220 and transfer \$2,000 from 12-9990-9990 (general fund capital contingency) to account 1220-7600 (computer equipment).
- n. **R/R Re: FY09 Literacy Council Funding:** Council approved increasing the outside agency fund category (8106-6130) by \$2,000 for the Literacy Council and authorized the interim town manager to make the appropriate budget adjustments.
- o. **Treasurer's Report & Line Item Transfers:** Council approved the treasurer's report reflecting a balance of \$44,892,709.70, bills paid listing, and line item transfers.
- p. **Minutes of Previous Meetings:** Council approved the minutes of the regular meeting of July 8 and special meeting of July 19, 2008.

#### **SPECIAL ITEMS AND RECOGNITIONS**

- a. **Employee of the Month Recognition:** Police Sergeant Andrew Terrill was selected as Employee of the Month for June 2008.

#### **COMMENTS & CORRESPONDENCE FROM CITIZENS, VISITORS & DELEGATIONS IN THE AUDIENCE**

**Jeff Bigelow**, N. Main Street resident, addressed council on the need for citizens to be more informed on the pros and cons on the issues facing the Town, especially the water authority and consolidation issue.

#### **UNFINISHED BUSINESS**

**Closed Session Items:** Vice Mayor Yowell moved, Councilmember Risner seconded, to re-appoint Kenton S. Dunn to the Planning Commission for another four-year term and appointed Jennifer Barbee to fill the unexpired term on the Parks and Recreation Commission. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (8); Nay: Jenkins (1); Absent: (0).

Vice Mayor Yowell moved, Councilmember Jenkins seconded, to ratify the appointment of Steve Jenkins to the E911 Board and Michael Olinger to the Culpeper Cable Commission as its representatives on these ABC's. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

#### **NEW BUSINESS - PUBLIC HEARINGS**

##### **FY2009 Budget Adjustments for FY2008 Encumbrances**

The Town of Culpeper is considering the adjustment of its current year budget in the amount of \$1,319,028. Sufficient funds for these projects were appropriated in the FY2008 budget but were not completed prior to the end of the fiscal year, requiring re-appropriation to FY2009. In accordance with Virginia Code Section 15.2-2507, the Town Council will hold a public hearing on these budget adjustments.

Mayor Rimeikis opened the public hearing.

There being no one to address council on this item, the public hearing was closed.

**R/R Re: FY2009 Budget Adjustments for FY2008 Encumbrances**

As part of the yearend process, unfinished projects from the prior year are carried forward to the current year. Budgeted funds available for these projects are brought forward as current year budget adjustments. The new fiscal year budget is adjusted to reflect these carryover transactions. The schedule that highlights the specific projects and obligations, totaling \$1,319,028 is filed in the meeting agenda packet for this date.

In accordance with Virginia Code Section 15.2-2507, an amendment exceeding 1% of the total budget requires a public hearing.

The FY2009 budget will increase in the appropriation as reserves and the expenditures totaling \$1,319,028 in accordance with the attached document. The breakdown by fund is as follows: General Fund - \$515,367; General Fund Capital - \$1,256,070; Water Fund - \$193,769; Wastewater Fund – (\$753,316); and Electric Fund - \$107,138.

It was recommended that the Town Council approve the budget adjustments as proposed and authorizes the Town Manager or his designee to make the necessary budget adjustments.

Council Member Olinger moved, Council Member Coleman seconded, to authorize the Town Manager or his designee to make the necessary budget adjustments. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

**REPORTS & RECOMMENDATIONS FROM AUTHORITIES, BOARDS & COMMISSIONS –**  
None

**REPORTS & RECOMMENDATIONS FROM COUNCIL COMMITTEES**

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

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

Interim Town Manager Huggard presented 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. Angus Green	Angus M. Green	1 – 12” x 12” paver	\$ 100.00
South East Street Neighborhood Watch	Cmdr. Anne Josephine Chelf	1 – 12” x 12” paver	\$ 100.00
Ms. Julia Monaco		Funds toward a central monument	\$25,000.00
<b>Totals:</b>			<b>\$25,200.00</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.

In the design of the memorial pad, there are 24 - 12" x 12" square pavers programmed. With the popularity and flexibility of engraved messages, staff has made additional 12" x 12" pavers available for donation by changing the existing paver configuration. This will continue making available a popular donate-able item, and increase the amount of funds to offset expenses for the park.

Ms. Julia Monaco has indicated her desire to donate \$25,000 towards a monument in the center of the memorial pad site at the park. In her letter (attached), Ms. Monaco stipulates that if the funds have not been utilized by June 30, 2010, she wishes to have the funds returned to her or her estate.

The current donations and requests will offset the total cost of the project by \$25,200. To date, the Town has accepted \$15,300 in donations for this park.

It was recommended that Council accepts the donation from Mrs. Angus Green and the South East Street Neighborhood Watch for 12" x 12" pavers, and Ms. Julia Monaco for funds specifically donated toward a central monument.

Council Member duFrane moved, Council Member Snider seconded, to accept the donations from Mrs. Angus Green and the South East Street Neighborhood Watch for 12" x 12" pavers, and Ms. Julia Monaco for funds specifically donated toward a central monument. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

**R/R Re: Amendment to Town Code Section 26-1, Discharge of Firearms (first reading):**

Interim Town Manager Huggard presented the report and recommendation that stated that Section 26-1. Discharge of Firearms, currently reads: "No person shall discharge, shoot or set off firearms of any description within the town except pursuant to a written permit issued by the town manager or his designee. If the person applying for such permit desires to discharge firearms on any land other than his own, he shall present to the town manager or his designee written permission from the owner of the land on which the firearms will be discharged."

Due to the population increase within the town limits, it is unsafe to allow discharging of firearms for any reason.

Therefore, it is recommended that Section 26-1 be amended to read:  
"No person shall discharge, shoot or set off firearms of any description within the town."

There will be minimal costs incurred to include the amendment in the next Code supplement.

It was recommended that Council hold the first reading of the amendment to Section 26-1, Discharge of Firearms, at its regular August 12, 2008 meeting, and the second reading and approval of the amended code section at the September 9, 2008 meeting at which time the amendment will become effective.

Council Member duFrane asked why the ordinance change was recommended and Chief Barlow responded he saw the issuance of shooting permits as a safety issue although there had been no incidents. He noted that he only received two requests for the permits in the last 14 months, and both were denied.

Discussion ensued and it was the consensus of council to have the Chief survey other communities similar in size to the Town of Culpeper to see how they handle the issuance of shooting permits. This will be an item for discussion at the August Public Safety, Public Works, Planning and Community Development Committee meeting.

### **R/R Re: Continuation of Public Transportation Advisory Committee**

Interim Town Manager Huggard presented the report and recommendation that stated the current term of the PTAC expires September 10, 2008. The PTAC bylaws stipulate that the Committee is to be reauthorized on an annual basis. The PTAC notes that during the current term, public transportation services were extended with the addition of an ADA bus. The PTAC notes that there are challenges in the term ahead including consideration of: 1) the addition of stops in Culpeper County at such commercial centers as Target; (Ridership has exceeded 50,000 per year and these services strain the timeliness of the service); and working with County officials to maximize ridership on the County Express.

The Public Transportation Advisory Committee has served as an advisory oversight body since public transportation services began in Culpeper on November 19, 2001. The 11-member committee meets to discuss the day-to-day operations of public transportation services and provides policy direction to VRTA. Some customers report that the bus service has given them mobility that they have not had in many years.

Since July 1, 2005, the Culpeper Connector has provided 204,833 rides to its customers. The Culpeper Connector consistently provides nearly 5,000 rides per month. If high ridership trends continue, there will be an estimated 56,936 riders in 2008. The ADA bus, since its initiation in September 2007, has consistently increased its ridership currently averaging 300 rides per month.

Based on the overall success of the public transportation program, and the fact that the Committee is planning for improved services, it is our recommendation that the PTAC be reauthorized for six months and that the current committee membership (listed below) be approved for the extended period. During this period, it is our recommendation for staff to revise the Committee's bylaws and develop a plan which would make the Committee permanent.

The PTAC has no financial impact. Members serve on a voluntary basis without compensation.

It was recommended that Town Council reauthorize the Public Transportation Advisory Committee with the current membership as reflected in the list below, for six (6) months, in order for staff to revise the bylaws and develop a plan to make PTAC a permanent Council committee.

Council Member Coleman moved, Council Member Snider seconded, to reauthorize the Public Transportation Advisory Committee with the current membership as reflected in the list below, for six (6) months, in order for staff to revise the bylaws and develop a plan to make PTAC a permanent Council committee. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

### **R/R Re: Donation from Culpeper Garden Club**

Interim Town Manager Huggard presented the report and recommendation that stated in connection with the Town's Adopt-a-Tree campaign, the Culpeper Garden Club wishes to donate eight (8) Crepe Myrtle trees for the median along Oaklawn Boulevard (\$17/each for a total of \$136). Mrs. Betty Jean Franklin, the President of the Culpeper Garden Club, who communicated the request to staff and has purchased the trees, is currently watering and maintaining them until they can be planted.

In addition to the trees, the Garden Club and three individual members, will purchase four (4) plaques to be installed at the base of the donated trees. Staff has reviewed the proposed 9 x 12 flat granite plaques and it meets the guidelines for memorials. The value of these plaques is \$180.00 (\$45.00 each).

In connection with Public Works staff, the trees as well as the plaques will be installed in the Oaklawn median.

It is estimated to cost \$120 in labor for two Public Works employees.

It was recommended that Town Council accepts the donation of eight Crepe Myrtle trees from the Culpeper Garden Club, authorizes them to install four (4) plaques at the site of the trees at a location approved by the Director of Public Works, and that staff plant the trees and install the plaques within the Oaklawn Boulevard median.

Council Member Coleman moved, Council Member Risner seconded, to accept the donation of eight Crepe Myrtle trees from the Culpeper Garden Club, authorize them to install four (4) plaques at the site of the trees at a location approved by the Director of Public Works, and that staff plant the trees and install the plaques within the Oaklawn Boulevard median. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

#### **Discussion Re: Skate Park Repairs**

Council Member Jenkins requested an update on the status of this project.

Town Engineer Stephenson reported that the Public Safety, Public Works, Planning and Community Development Committee referred the issue to the Parks and Recreation Committee to review safety concerns and rules and regulations and report back their options and recommendations in 60 days.

Discussion ensued about the abuse and wear and tear the park had received with Council Member Ryan suggesting Council proceed with the repairs, then consider the recommendations of the Parks and Recreation Committee.

Town Engineer Stephenson stated that an invitation for bids would have to be advertised again since the original bids were rejected based on council's previous action.

Council Member Jenkins moved, Council Member Olinger seconded to direct staff to reissue the invitation for bids for this project. Council Member Snider stated that the Town has invested approximately \$200,000 in the skate park.

The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

#### **Project Update – Route 522 & Yowell Drive Improvements for Yowell**

Town Engineer Stephenson reported staff had been working with the school system on this project, the Town not requiring 100% completion by the contractor by the scheduled first day of school (August 20), and using officers for traffic control in the morning and afternoons at this intersection. He clarified the road improvements are *not* the reason the school would not be ready to open on August 20.

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

##### **R/R Re: Increasing Council Salaries Retroactive to July 1, 2008**

Interim Town Manager Huggard presented the report and recommendation that stated at the July 19, 2008, special council meeting, six members of council were present at the start of the meeting when the agenda was amended to add a discussion on increasing salaries of council members. Near the end of the meeting, the matter was discussed and a vote was taken to increase council salaries to \$900/month, the vice mayor's salary to \$1000/month, and the mayor's salary to \$1200/month.

However, after council's actions were reviewed by the town attorney, Mr. Bendall stated that based on Town Code Section 2-29, Limitation on business conducted at special meetings, that no business shall be transacted at a special meeting except the business for which the meeting was called, unless *all* members were present.

Since all members were not present when the council salaries item was added to the agenda, it was business that may not be considered at that special meeting and needs to be added to another agenda and considered.

Approval of the proposed council salary increases will result in an additional expenditure of \$25,200 in Town Council's (1101) FY2009 budget. Funds in the amount of \$25,200 can be transferred from the general fund contingency line item (12-9990-9990) to 1101-5030 (salaries, part-time).

It was recommended that council approves increasing the salary of council members to \$900/month, the vice mayor to \$1000/month, and the mayor to \$1200/month retroactive to July 1, 2008, and authorizes the interim town manager to make the budget adjustments (transferring \$25,200 from 12-9990-9990 to 1101-5300).

Council Member Coleman moved, Council Member Jenkins seconded, to increase the salary of council members to \$900/month, the vice mayor to \$1,000/month, and the mayor to \$1,200/month retroactive to July 1, 2008, and authorize the interim town manager to make the budget adjustments (transferring \$25,200 from 12-9990-9990 to 1101-5300). The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Ryan, Yowell (7); Nay: Risner, Snider (2); Absent: (0).

#### **Town Attorney Update Re: Pending Litigation – Lawsuit filed by Culpeper Star Exponent vs. Town of Culpeper**

Attorney Bendall reported the Star Exponent filed suit against the Town for holding an illegal closed session “caucus” on July 28, 2008. He was contacted by the law firm representing the paper stating they were filing a Motion to Dismiss without precedent. He requested council's approval to sign the Order of Dismissal for the lawsuit.

Council Member Risner moved, Council Member Coleman seconded, to authorize the Town Attorney to sign the Order of Dismissal for the lawsuit. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

#### **REPORTS & RECOMMENDATIONS FROM TOWN ADMINISTRATION**

##### **R/R Re: Appeal of ARB Decision COF-005-2008 Re: Blair House**

The Code of Virginia Section §15.2-2306 provides for appeals of Architectural Review Board decisions to town council. This is reflected in Section 27-133 of Town Code. The town council has at least two (2) options in this decision. These include: 1) Town council may affirm the decision of the ARB in COF-005-2008; or 2) Town council may overturn the decision of the ARB in COF-005-2008. If the decision of town council is to overturn the decision of the ARB in COF-005-2008, the applicant has the right to appeal to the Culpeper County Circuit Court. The authority to issue Certificates of Findings has been duly delegated by the town council to the ARB and the HCCB since 1983.

The applicant requests that town council considers the appeal of COF-005-2008, the representative information, and the actions of the Architectural Review Board and overturns the decision based upon the following:

1. That the ARB acted outside its general purview due to its public scrutiny of the future road widening and redevelopment of the property;
2. The board disregarded the task of determining the structures' historic nature, until after being advised by staff that its decision was based solely on that determination;

3. The board's decision to deny was loosely and quickly formed on a vaguely suggestive letter from the Department of Historic Resources that the property may be historic if nominated for a Virginia or Federal Historic Register;
4. The demolition of the Blair House is in the public interest insofar as it utilizes council's ability to improve and construct facilities for the public good; and
5. Based upon the information presented in the staff report and this appeal, that the structure is not historic and the council should determine that it is not.

A brief summary of the COF-005-2008 follows. The Town of Culpeper applied to the ARB on May 20, 2008 to demolish two structures on the subject property (as noted on the enclosed staff report). In November 2007, the Town issued an RFP for the Sale and Removal of the Blair House to another location. Additionally, the property was listed in the "Classified" section of Preservation magazine (January/February 2008 edition). This is the leading national preservation magazine with nationwide circulation. The house was also listed in local newspapers, as well as direct mail to housing advocacy groups such as Habitat to Humanity and the Culpeper Community Development Corporation (CCDC). The house was listed for sale, with the stipulation that it be moved from the current site. Bids were due on February 29, 2008. One bid was received from R.S. Melanson Excavating Incorporated. This however, was not a responsive bid as it was for the demolition and disposal of the structure. (The Blair House was listed for "sale and removal" to another location; none of the ads listed it for demolition). Town Council rejected the bid received as it was not responsive. Further, staff was instructed to submit an application (for demolition) to the Architectural Review Board for processing in accordance with Section 15.2-2306 of the Code of Virginia and the Town's historic preservation ordinance. This request was tabled for one month, from council, because staff believed an individual might be interested in moving the house. Unfortunately, that opportunity did not come to fruition.

In its presentation to the ARB, staff outlined the above measures taken by town council to dispose of the property without demolishing it. These measures were performed in accordance with Code of Virginia Section §15.2-2306 (A)(3) as follows:

*In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows:*

*three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.*

The process for review of non-contributing structures, per 27-352 (d)(2) of the Town Code requires that the ARB or, on appeal, the council determine whether the property is historic. The structure appears to have been constructed in the 1920's and does not have a survey form. Where no survey form exists, the property is considered to be non-contributing. Due to the demolition of surrounding buildings in the area, there remains no historical or cultural context for the structure. No interest in the structure has been taken by property owners in the neighborhood, which could have indicated some historical significance as a historic site.

The applicant stated to the Board the reasons for demolition:

- Road widening of West Street; and
- The property will complement a future mixed-use redevelopment site.

Town staff received an opinion letter from the Virginia Department of Historic Resources in March 13, 2007, wherein it stated that,

*“In reviewing DHR’s files for the Blair House, built circa 1920, it is noted that the house is over 50 years old and would be regarded as a historic resource. The information in the files also reveals that the Blair House is connected with Harrison Blair who was the first minister of the Antioch Baptist Church, located across the street from the house. In later years, the Blair House was used for a taxi business, and Compton Blair ran a barbershop there. It is possible that the house could qualify individually for the registers under Ethnic Heritage – African American. A preliminary information form would need to be completed and an evaluation done to make this determination.”*

The ARB placed heavy emphasis on the words “historic resource.” DHR does classify any structure over 50 years old as a historic resource, but that label does not define it as “historic.” In addition, the board placed a significant amount of emphasis on the phrase, “It is possible that the house could qualify individually for the registers under Ethnic Heritage – African American.”

As a means of determining historic nature, the following criteria could be utilized as a test of historic nature:

1. Is the building of such architectural or historic interest that its removal would be detrimental to the public interest;
2. Is the building of such old, unusual, or uncommon design or does the structure contain unusual elements of texture or material that it could not be reproduced, or be reproduced only with great difficulty; or
3. Would the retention of the structure preserve and protect an historic place or area of historic interest.

In addressing #1, the surrounding historical context of the structure has been lost with the gradual demolition of surrounding buildings. With regard to #2, and as indicated in the initial staff report, this is a typical American Foursquare house, with no outstanding architectural features. Finally, with regard to a historic place or area of historic interest, there is little to no regard to this structure in the context of the surrounding neighborhood and has remained vacant for some time.

The applicant wishes to cite several instances from this meeting, where the ARB’s decision was ultimately influenced as a result of scrutiny and questions that were outside the purview of the board. First, the applicant was questioned if the road widening (public improvements) was even warranted. After answering the board’s questions regarding the use of the property, to which the answer was a future mixed-use redevelopment site when economic conditions improved and a viable developer materialized, it was not convinced this was an adequate answer. The board has the right to inquire of a future use, but it is outside their purview to imply or require a timeline for development.

Further, if the board had valid concerns about the nature of the future development, it does have review of any potential site plans, giving it authority to regulate and determine the character, style, and materials of the structure. As contained in the minutes, Town staff reminded the ARB that the decision should be based solely on a determination of its "historic" nature. There was significant discussion by the board which did not answer questions of historic nature, but of the rationale for road improvements and future timelines for redevelopment projects.

The applicant feels that the board overstepped its purview in the matter and, only after being reminded by staff, it focused on a vaguely suggestive letter from the Department of Historic Resources, which can scarcely be taken as a definitive opinion.

Citing the precedent of town council to overturn the ARB in COF-002-1994, the board voted to deny the Town's request to demolish the structure, citing that it was a significantly contributing structure and that there were no immediate plans for the property. The single-family dwelling unit was located at 130 West Locust Street and was blighted, and a general eyesore. The property was located in the middle of other town-owned parcels which were slated for future development. Council overturned the decision based on the Town's ability to purchase, demolish, and improve and construct facilities for the public good. In this case, there was significant evidence of the Town working with outside parties to revitalize and restore the building, before it was ultimately demolished, in accordance with §15.2-2306(A)(3). Given the significant effort by the Town, council felt compelled to overturn the ARB's decision, and to construct a public facility.

Council's options in this matter are to:

- Ratify the ARB's decision, finding the property historic; or
- Overturn the decision of the ARB, finding that the property is not historic

Council Member Risner moved, Council Member duFrane seconded to overturn the decision of the ARB, finding the property was not historic.

Council Member duFrane moved to amend the motion, seconded by Vice Mayor Yowell, to not demolish the house for six (6) months to see if anyone or any entity comes forward with an alternate plan for the house. The amendment carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

The motion carried by the following roll call vote: Ayes: duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: Coleman (1); Absent: (0).

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

a. Update on Hiring Process for Town Treasurer: Town Manager Huggard reported the job advertisement would be released later in the week and placed in periodicals including those with VML and ICMA and treasurer's periodicals.

Update Re: Bluemont Concert Series Contribution: Town Manager Huggard reported as directed by Council, staff contacted the County immediately following the July meeting but found they had already processed their FY09 contribution to Bluemont; therefore, it could not be combined with the Town's \$2,500 to increase the grant funds for the Series.

**COMMUNICATION & CORRESPONDENCE:** There was none.

**CLOSED SESSION**

Council Member Coleman moved, seconded by Council Member Snider, that council return to closed session to further discuss or consider acquisition of property for the purpose of a future public safety facility site and disposition of publicly held real property regarding leased space in the Municipal Building pursuant to Code of Virginia Section 2.2-3711(A)(3) and to discuss and consult with staff and/or legal counsel regarding negotiating issues which may become subject to review by the Commission on Local Government relating to interjurisdictional cooperation, a possible boundary adjustment with Culpeper County, and water and sewer agreements generally pursuant to Code of Virginia Sections 2.2-3711(A)(7) and 15.2-2907(D).

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

Following a brief recess, council entered closed session at 8:29 p.m. and open session at 9:22 p.m.

Certificate of Closed Session: Pursuant to Code of Virginia Section 2.2-3712, Mayor Rimeikis requested the Clerk poll the members 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 15.2-2907 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 following roll call was taken: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: None (0).

Vice Mayor Yowell moved, seconded by Council Member Jenkins, to authorize staff to proceed with finalizing the real estate contract to purchase the proposed police station property at 740 Old Brandy Road. The motion carried by the following roll call vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nay: (0); Absent: (0).

**ADJOURNMENT**: Council adjourned at 9:24 p.m.

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Clerk

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Mayor