

Regular Meeting

County Board Room
December 9, 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 and William M. Yowell, Council members; Jeffrey B. Muzzy, Town Manager; Chuck Stephenson, Town Engineer; Kimberly D. Allen, Town Clerk; Robert W. Bendall, Town Attorney; Lisa D. Hutcherson, Deputy Town Clerk. **Also Present for the 7 p.m. Session:** Tonya Estes, Information Technology Manager; Beth Burns, Tourism Director; Robert H. Thornhill, Jr., Public Works Director; and Mark Bly, Light & Power Director.

AGENDA APPROVAL

Mayor Rimeikis requested the addition of Consideration of Granting December 26 as an additional Town holiday to the agenda as Item 9.03B4.

Mayor Rimeikis reported that McPherson & Jacobson, the firm conducting the search for the School Board's superintendent, requested a meeting with council to give a brief overview of the process. It was the consensus of council to schedule a Special Meeting on January 13, 2009 at 5:30 p.m. before the regular meeting for this purpose. Note: This meeting was later canceled since members could complete the firm's survey on-line.

Council Member Risner moved, Council Member Jenkins seconded, approval of the amended agenda. 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, Council Member Coleman seconded, to discuss or consider specifically named individuals for appointment to the Oversight Committee for the 250th Anniversary and specifically named individuals who have applied for positions on authorities, boards, and commissions (specifically Joint Board of Building Code Appeals, Parks & Recreation Commission, Public Transportation Advisory Committee, and Economic Development Advisory Committee) pursuant to Code of Virginia Section 2.2-3711(A)(1), 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), to discuss and consult with legal counsel on actual litigation relating to a petition of registered voters to seek consolidation and probable litigation relating to water and sewer rates pursuant to Code of Virginia Section 2.2-3711(A)(7).

The motion carried by the following voice vote: Ayes: Coleman, duFrane, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (8); Nay: Jenkins (1); Absent: (0). Note: Council Member Jenkins voted nay to sections A7 and 15.2-2907(D) only. Council entered closed session at 6:05 p.m. Staff attending: Town Attorney Robert Bendall and Town Engineer Stephenson.

Council reconvened in open session at 6:50 p.m.

Certificate of Closed Session:

Pursuant to Code of Virginia Section 2.2-3712, the Clerk polled 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: (0).

Council recessed at 6:56 p.m. and reconvened in open session at 7:05 p.m.

PLEDGE OF ALLEGIANCE: Vice Mayor Yowell led the Pledge of Allegiance.

CONSENT AGENDA

Council Member Olinger moved, Council Member Risner 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: Change Order #1—Materials Testing at WWTP Phase II—Timmons Group:** Council authorized the town manager to execute Change Order #1 for wastewater treatment construction project change order #1 and authorized the line item transfer of \$52,000 from 9990-9990 to line item 9057-5216 (engineering services for WWTP Phase II capital).
- b. **R/R Re: Maintenance Payments for Streets in Meadows Subdivision:** Council accepted Finley Drive and Knicely Court into the Town's street system and requested that these streets be accepted by VDOT for maintenance payments. Council authorized the mayor and town clerk to execute the resolution.
- c. **R/R Re: Partnering with Chamber of Commerce & County to Install "Shop Historic Culpeper" Sign on Silo at Elkwood:** Council authorized the town's participation in the partnership with the Chamber of Commerce and County of Culpeper for the funding of the "Shop Historic Culpeper—Next Exit" sign on a silo in Elkwood and directed the town manager to transfer \$550 from the general fund contingency (12-9990-990) to line item 8106-6130 (contributions) for this purpose.
- d. **R/R Re: Telecommunications Agreement with Teleconnect Long Distance Services Systems Co.:** Council approved the franchise agreement and authorized the town manager to execute the agreement with Teleconnect Long Distance Services Systems Co. for a period of five (5) years.
- e. **R/R Re: Yowell Meadow Park Skate Park Repairs:** Council authorized the town manager to enter into a contract with Centurion Inc. dba Ramptech for substantial repairs to the Yowell Meadow park skate park facility in the amount of \$31,781 and make the necessary line item transfer to complete the project. The town manager will be the contract administrator and the Department of Planning & Community Development will coordinate with the contractor.
- f. **Treasurer's Report:** Council approved the treasurer's report, reflecting a balance of \$37,117,088, bills paid listing, and line item transfers.
- g. **November 13, 2008 Regular Council Meeting Minutes:** Council approved the minutes of the regular meeting of November 13, 2008.

SPECIAL ITEMS AND RECOGNITIONS

- a. **Employee of the Month Recognition:** Police Records Clerk Sharon Brown was selected as Employee of the Month for October 2008.
- b. **Commendation for Cameron Villemaire, Life Boy Scout of Troop 198:** Mayor Rimeikis presented a commendation to Cameron Villemaire, a Life Scout of Boy Scout Troop 198 and a candidate for the rank of Eagle Scout in 2009. Cameron built and installed nine bluebird, eight wren, and four chickadee birdhouses at Yowell Meadow Park. He also built and installed four bluebird, two wren, and two chickadee birdhouses at Wine Street Memorial park.

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

Bob Herold, General Manager of Cintas, referenced the uniform bids that would be voted on later in the meeting and requested the Town accept their bid for this service based on various factors including the taxes they pay to the Town, water and sewer charges paid annually, the previous and current relationship the business has with the Town, and the wages the company places in the community.

Dave Groot, owner of Windstar Technologies, discussed the proposed software purchase on the agenda and believed council should accept his subscription-based option as a solution to the Town's software licensing issues.

UNFINISHED BUSINESS

Closed Session Items

Vice Mayor Yowell moved, Council Member Jenkins seconded, Council appoint the following citizens to the Oversight Committee for the 250th Anniversary Celebration: T.I. Martin, Angus Green, Butch Davies, Kathi Walker, Donnie Johnston, Tom Huggard, Bobby Ryan, Johnson Lane, and Emma Richards; also that Council ratify the Disability Services Board's appointment of Caroline Graham as its representative on the Public Transportation Advisory Board, appoint G.W. Dameron and re-appoint Jennifer Barbee to the Parks & Recreation Commission effective January 1, 2009 and expiring December 31, 2012, and re-appoint Richard C. Early to the Joint Board of Building Code Appeals effective January 1, 2009 and expiring December 31, 2013.

NEW BUSINESS - PUBLIC HEARING - None

REPORTS & RECOMMENDATIONS FROM AUTHORITIES, BOARDS & COMMISSIONS - None

REPORTS & RECOMMENDATIONS FROM COUNCIL COMMITTEES **PUBLIC SAFETY, PUBLIC WORKS, PLANNING & COMMUNITY DEVELOPMENT** **COMMITTEE**

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

Town Manager Muzzy presented the report and recommendation that stated the Town Code 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.”

The Culpeper Police Department is currently designated by the Town Manager to issue shooting permits as allowed by Town Ordinance 26-1. During past years, the issuance of these permits was restricted to the shooting of varmints and was issued without any defined and consistent criteria. Based on the town's urban densities and the desire to protect the public safety, staff brought forward a proposal to Town Council which would have prohibited the discharging of firearms within the Town limits. Council declined to take action on the proposal and directed staff to confer with the Town Attorney regarding the ability to regulate the discharge of firearms.

The Town Attorney provided his opinion that the Town does have legal authority to either prohibit, or to set forth conditions which regulate or limit discharging of firearms. The Town Attorney cited the Code of Virginia, Section § 15.2-1113 which states that “Dangerous, etc., business or employment; transportation of offensive substances; explosive or inflammable substances; fireworks. — A municipal corporation may regulate or prohibit the conduct of any dangerous, offensive or unhealthful business, trade or employment; the transportation of any offensive substance; the manufacture, storage, transportation, possession and use of any explosive or inflammable substance; and the use and exhibition of fireworks and the discharge of firearms. A municipal corporation may also require the maintenance of safety devices on storage equipment for such substances or items.” The code further states that “Any municipal corporation that regulates or prohibits the discharge of firearms shall provide an exemption for the killing of deer pursuant to § 29.1-529. Such exemption shall apply on land of at least five acres that is zoned for agricultural use”.

Staff has carefully reviewed this issue and in keeping with the Council’s direction, has considered a variety of approaches to regulate (as opposed to prohibit) the discharge of firearms within the boundaries of the Town of Culpeper. Staff has considered such limiting criteria as restrictions on the size of the parcel, the caliber of the firearm, the distance to a property line, etc. but we have come to the conclusion that there are so many variables and variations that a “one size approach definitely does not fit all” situations. To this end, and to bring forth a proposal for Council’s consideration, staff has drafted the following proposed ordinance that we feel simplifies the process considerably. Essentially what is presented is an ordinance which will do away with the arbitrary permit process and put total responsibility on the person who wishes to discharge a firearm in the Town of Culpeper.

The intent of the following ordinance is to allow discharging of firearms in Town for the sole purpose of varmint control. The ordinance does not address criteria for discharging the firearm nor will a permit be required. The intent of the ordinance is to allow the discharge of a firearm by right, but places the legal responsibility onto the shooter for the result of his/her decision to discharge the firearm.

One thing that staff does want to make very clear is that at no time, either in the original or the revised proposals, has staff proposed any regulation that would infringe on a citizen’s right to purchase, own, carry, or defend themselves with a firearm. These areas are regulated by entirely different state and federal laws.

There will be costs incurred to provide the Code amendment to Municipal Code for inclusion in the next supplement.

It was recommended that Council hold the first reading of the proposed amendment to Section 26-1, Discharge of Firearms, at the December 9 regular council meeting and the second reading at its January 13, 2009, regular meeting. It is further recommended that upon adoption, council authorize the mayor to sign the ordinance implementing the amendment to Section 26-1 to read as follows and become effective immediately:

Section 26-1, Discharge of Firearms.

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~~ for the control of varmints (vermin unprotected by game law). 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 must have written permission from the owner of the land on which the firearm will be discharged. The person discharging the firearm is responsible for the projectile staying within the curtilage of the property they are authorized to shoot on, and they must comply with all other applicable state, and local laws. The person discharging the firearm is required to notify those on adjoining properties and the police department prior to discharging the firearm when feasible or immediately after the discharge.

R/R Re: Donations to Wine Street Memorial Park

Town Manager Muzzy presented the report and recommendation that stated that 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:
Belmont Farm Distillery	R.T. Miller	1 – 4” x 8” paver	\$ 50.00
Ellis Dulaney	Ellis Dulaney	1 – 4” x 8” paver	\$ 50.00
Ellis Dulaney	Harry T. Dulaney	1 – 4” x 8” paver	\$ 50.00
Constance Davis	Harold J. Davis	1 – 12” x 12” paver	\$ 100.00
Wade Schick	Sonny Schick	1 – 12” x 12” paver	\$ 100.00
John Lee Durant	World War II and Korean Veterans	Funds toward a central monument	\$ 500.00
Totals:			\$ 850.00

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.

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 an additional 36-12” 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.

The current donations and requests will offset the total cost of the project by \$850. To date, the Town has accepted \$53,499.28 in donations for this park.

It was recommended that Council accept the donations from Belmont Farm Distillery and Ellis Dulaney (2) for a 4” x 8” paver, Constance Davis and Wade Schick for a 12” x 12”paver, and John Lee Durant for funds toward a central monument.

Vice Mayor Yowell moved, Council Member Risner seconded, to accept the donations from Belmont Farm Distillery for a 4” x 8” paver in the amount of \$50, Ellis Dulaney for two (2) 4” x 8” pavers in the amount of \$100, Constance Davis for a 12” x 12” paver in the amount of \$100, Wade Schick for a 12” x 12”paver in the amount of \$100, and John Lee Durant for funds toward a central monument in the amount of \$500.

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

R/R Re: Four-Way Stop Signs—Belle Avenue/Cottontail Drive and Blossom Tree Road/Whitworth Drive

Town Manager Muzzy presented the report and recommendation that stated the Town had received two requests for the installation of four-way Stop signs at intersections. The first is the intersection of Belle Avenue and Cotton Tail Drive and the second is for the intersection of Blossom Tree Road and Whitworth Drive.

The Town Police Department conducted a traffic and speed study to determine the necessity for the requested traffic control measures. Taking into consideration a speed study, site distance, and all crash data, Town staff does not recommend installing four-way Stop intersection signage.

There would be no financial impact if the recommendation was approved.

It was recommended that Council deny the request to install the four-way stop signs at the intersections of Belle Avenue and Cotton Tail Drive and at Blossom Tree Road and Whitworth Drive.

Council Member Jenkins asked staff how Belle Avenue and Cotton Tail Drive differed from Virginia Avenue, which has six four-way stops and questioned what the recommendation is based on.

Assistant Town Engineer Fritz Alderman explained the VDOT standards used when evaluating intersections for four-way stops.

Mayor Rimeikis asked what the actual problem with the intersections was. Assistant Town Engineer Alderman replied that in the citizens' request, they implied a safety concern for the children at the school bus stop and vehicles speeding on the streets.

Council Member Risner believed after reviewing the request, the main concern was the safety of the children at the school bus stop, which the four-way stop signs will not help. After staff reviewed the information, a four-way stop was not warranted.

Council Member Coleman asked if a neighborhood requests a four-way stop, was there a major reason for not installing the signs.

Vice Mayor Yowell stated a few years ago, VDOT representatives attended a meeting and implied four-way stop intersections were dangerous.

Council Member Risner moved, Council Member Ryan seconded, to deny the request to install the four-way stop signs at the intersections of Belle Avenue and Cotton Tail Drive and at Blossom Tree Road and Whitworth Drive.

The motion was defeated by the following voice vote: Ayes: Rimeikis, Risner, Snider, Yowell (4); Nays: Coleman, duFrane, Jenkins, Olinger, Ryan (5); Absent: (0).

Council Member Snider asked the cost of installing four-way stop signs. Public Works Director Thornhill replied the cost is approximately \$1,000 per intersection.

Council Member Jenkins moved, Council Member Coleman seconded to approve installing four-way stop signs at the intersections of Belle Avenue and Cotton Tail Drive and at Blossom Tree Road and Whitworth Drive.

The motion carried by the following voice vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Snider, Yowell (6); Nays: Rimeikis, Risner, Ryan (3); Absent: (0).

R/R Re: Future Use of Yowell Meadow Park Skate Park Facility

Town Manager Muzzy presented the report and recommendation that stated as a directive from the Public Safety/Public Works and Planning and Community Development Committee, the Parks and Recreation Commission developed a plan for the future use of the skate park facility, to ensure its future viability.

During this process, and on August 26, 2008, the Parks and Recreation Commission developed the following six strategies for the future of the skate park:

1. Revise the park rules, council adopts a skate park ordinance(s), and create a board through SCOOP;
2. Close the skate park permanently;
3. Donate the skate park equipment to private management;
4. Limit the skate park's hours of operation to specific times;
5. Leave the skate park as is; and
6. Develop and foster parent/volunteer supervision.

The following are positive and negative aspects of each proposed strategy:

Positive Aspects

Revise rules, Adopt ordinance, Create board (through SCOOP)	Close park permanently	Give equipment to private management	Open during certain definite times	As - is	Parent/volunteer supervision
Maintains skating outlet	Simple closure to issues	Simple	Limits cost of attendant	simple	There is adult supervision
Keeps kids off streets	Sell equipment	There is management	Kids view open times as more valuable		Use SCOOP
Increase socialization		Financial investment not being used			
Childhood health/wellness					
Good outreach program					
Alternative activity					
socialization					

Negative Aspects

Revise rules, Adopt ordinance, Create board (through SCOOP)	Close park permanently	Give equipment to private management	Open during certain definite times	As - is	Parent/volunteer supervision	Negative Issues in General
Financial commitment	No skating outlet for kids	Users pay fee	Closure issues	No resolution	Need reliable volunteers	Trash
Labor cost to police department	Financial investment not being used	Town relieved of financial responsibility for funding	Can't fence due to flood plain	Additional financial investment will escalate	Use SCOOP	Language – entire park
Allow temporary closure as enforcement mechanism	Skaters will use parking lots sidewalks, etc.	Leave equipment where it is and privatize it	Limited skater use time		Finding volunteers	Park user conflicts
	Perceived failure		Requires attendant		Parents can't enforce ordinances	Wear shirts – entire park
	Ancillary revenue to businesses lost		Crowd control		Parent/child conflicts	
	Doesn't solve hang out problem		Difficult for out-of-towners		Parent/parent conflicts	

The negative issues in general, as identified by the Commission, are: trash, foul language (throughout the park), park user conflicts, and the wearing of shirts (throughout the park).

At the September 30, 2008 regular meeting of the Parks and Recreation Commission, the Commission reviewed the positive and negative aspects (listed above) and following significant discussion among staff, the membership, and several local skaters in attendance, made the following two recommendations to be forwarded to Town Council:

Plan A

The following items relative to the skate park would occur under Plan A:

1. The Town retains control of the skate park.
2. Revises the park rules (attached) and deletes:
 - a. Rule #9 – No skating is permitted outside the skate park area which includes the pedestrian paths.
 - b. Rule #13 – No personal music devices are permitted in the skate park.
 - c. Rule #16 – No food, including chewing gum, is allowed in the skate park area.
3. Develops and recommends to Council necessary ordinances to allow police to enforce rules more effectively.
- ~~4. Ensures that the skate park has dedicated attendants.~~
5. Enforcement of ordinances by periodically and temporarily closing skate park (through use of chains).

Plan B

The following items relative to the skate park would occur under Plan B:

1. Privatizes the skate park, on an annual contractual basis, with an outside party.
2. Relies on private management company to enforce all skate park rules.
3. Equipment still owned by the Town.

At the October 28 Public Safety, Public Works and Planning and Community Development Committee meeting, the Committee agreed to the Parks and Recreation Commission's recommendation of "Plan A", and made the following changes:

1. Removed #4, ensuring that the skate park had dedicated attendants; and
2. Requested that staff provide examples of actual skate park ordinances (attached).

There is a financial impact associated with Plan A. Under Plan A, and in order to enforce ordinances, the temporary closing of the skate park would be necessary. At an estimated cost of \$5,000, heavy chains would be placed on existing equipment to achieve this.

Under Plan B, it is anticipated that there would be some minimal costs associated with the contractual agreement between the Town and an outside management company managing the park.

It was recommended that Town Council adopts the Parks and Recreation Commission's recommended Plan A (with the removal of item #4), authorizes the expenditure of up to \$5,000 to place heavy chains on existing equipment to temporarily close the skate park, and adopts the revised skate park rules and regulations.

Council Member Risner moved, Council Member Jenkins seconded, to adopt the Parks & Recreation Commission's recommended Plan A (with the removal of item #4), authorize the expenditure of \$5,000 to place heavy chains on existing equipment to temporarily close the skate park, and adopt the revised skate park rules and regulations.

Mayor Rimeikis noted that under Plan A #5 – enforcement of ordinances by periodically and temporarily closing skate park (through use of chains) was left in and asked if it should stay in.

Discussion ensued as to the purpose of Item #5 and the possibility of having the committee further review the item.

Council Member Coleman stated that the committee discussed the removal of Item #5 and the \$5,000 expenditure at the committee meeting.

Council Member Jenkins moved, Council Member Snider seconded to amend the main motion to strike item #5 from Plan A. The motion carried by the following voice vote: Ayes: Coleman, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (8); Nays: duFrane (1); Absent: (0).

Council Member Risner moved, Council Member Jenkins seconded, to adopt the Parks & Recreation Commission's recommended Plan A (with the removal of items #4 and #5 – no attendants and no periodic and temporary closing of the skate park with the use of chains) and adopt the revised skate park rules and regulations. The motion carried by the following voice vote: Ayes: Coleman, Jenkins, Rimeikis, Risner, Ryan, Snider, Yowell (7); Nays: duFrane, Olinger (2); Absent: (0).

R/R Re: New Police Station Architectural Services

Town Manager Muzzy presented the report and recommendation that stated pursuant to Council direction, a Request for Qualifications for Architectural Services was issued and responses were received from five vendors on October 28. A staff management team panel interviewed shortlisted firms and ultimately selected Dominion Development Resources (DDR) as the best fit firm for the police station project.

The management team negotiated a fee schedule with DDR in the amount of \$275,000 for an all inclusive design package to include minimal construction management services.

Monies are available in the General Capital Budget – New Police Station Department project to fund the design services.

It is recommended that Council authorize the Town Manager to enter into contract with Dominion Development Resources in the amount of \$275,000 for Police Station design services for renovation of the property at 740 Old Brandy Road.

Council Member Snider moved, Council Member Risner seconded, approval of the report and recommendation as submitted.

Discussion ensued regarding the assurance of the contract not exceeding \$275,000.

Town Engineer Stephenson stated that if the scope of services does not change, the cost should not increase; however, if something was discovered after the structure was gutted that was not anticipated, the cost may change.

Vice Mayor Yowell stated that the Finance, Personnel, Technology, & Ordinance Committee would be tracking this item very closely.

Council Member Jenkins suggested council consider hiring a project manager to oversee the project and maintain the cost.

Council Member duFrane moved, Council Member Olinger seconded to table the item until the January 2009 meeting. The motion carried by the following voice vote: Ayes: Coleman, duFrane, Olinger, Ryan, Snider, Yowell (6); Nays: Jenkins, Rimeikis, Risner (3); Absent: (0).

FINANCE, PERSONNEL, TECHNOLOGY, & ORDINANCE COMMITTEE

R/R Re: Software Purchase

Town Manager Muzzy presented the report and recommendation that stated IT was in the process of performing internal software audits to determine if all licensing is in compliance and to determine the current utilization of existing software. The status of the findings and recommendations are as follows:

Microsoft requires a separate license of Office on each computer before an upgrade qualifies. On several computers, an upgrade was performed from one original license that was installed on all other computers instead of an individual license per machine. As a result, by Microsoft's Licensing Agreement, this is not in compliance with their existing agreement.

Microsoft offers several Volume Licensing options for government organizations.

Option #1

Subscription License:

- 36 mo. Contract
- Pay yearly
- Town does not own software
- Includes updates and upgrades
- 1st year: \$18,630, 2nd year: \$21,122, 3rd year: \$21,122

Option #1 Total: \$60,874.00

Option #2

Office Pro Plus with Software Assurance

- 1 time cost
- Town owns software
- Includes updates and upgrades to new software.
- Note: Software Assurance is often criticized for its expense and the lack of “free” software upgrades within the contract period. The development period between Microsoft operating systems often exceeds the three year contract.

Option #2 Total: \$57,054.72

Option #3

Office Pro Plus without Software Assurance

- One-time cost
- Town owns software
- Includes updates

Option #3 Total: \$32,842.58

As part of our audit, it was determined that the town’s backup software had expired and does not meet the town’s current network configurations. An upgrade and additional licenses are needed to backup the additional servers that have been added to the network: mail, Great Plains/MainStreet (Treasurer), and file servers for Municipal, Light and Power, Public Works and Police Department.

The Town’s tape backup solution protects the data efficiently, securely and offsite. It is used to backup all the data files on each server. If a server crashes or a file is lost, the tape backup system will allow us to retrieve the data from the tape. These tapes are stored offsite for security and disaster recovery purposes.

To avoid possible copyright infringements, IT recommends that all computers and servers be upgraded and that council authorizes standardizing software application packages that will decrease cost in software purchases and greater efficiency throughout the organization.

Further, IT recommends the purchase of Option #3, Office Pro Plus without Software Assurance, in the amount of \$32,842.58 and Symantec Backup Executive in the amount of \$3,025.96.

The total cost to purchase all software licenses is \$35,868.54. There is \$10,700 budgeted in this fiscal year for software upgrades in line item 1220-7650 (Computer Software). The remaining funds in the amount of \$25,168 are available at this time in the general fund contingency account (9990-9990) that can be used for this purpose and then repaid from the respective departmental budgets (based on the number of computers in each department).

It is recommended that Council authorize the Town Manager or his designee to purchase Option #3, Office Pro Plus without Software Assurance from SHI in the amount of \$32,842.58 and Symantec Backup Executive in the amount of \$3,025.96. The IT Budget (1220-7650) will bear the cost of the software upgrades (\$10,700); the remaining \$25,168 will initially be paid with funds from the general fund contingency (9990-9990) with each affected department being charged its share of the cost (based on their respective number of computers) and these amounts repaid to the general fund.

The IT Manager explained the original proposal was to purchase software for sixty (60) computers but reduced it to thirty (30) once she was informed Microsoft was no longer supporting Office 2003 in 2009, and they no longer support their products after five or six years.

While obtaining these quotes, Microsoft and Windstar, a local vendor, informed her that the town was not in compliance with any of their upgrades.

Council Member Olinger asked what the pros and cons were to own the software.

Discussion ensued regarding each option and the cost of software assurance.

Council Member duFrane asked which option was brought forward by Windstar and Ms. Estes replied it was Option #1.

Council Member Jenkins asked if funding was available for this and the Town Manager replied the IT Budget would contribute \$10,700 and the remaining funds would be taken from general fund contingency then repaid by the respective departmental budgets based on the number of computers in each department.

Council Member duFrane asked if the Options were from local or state vendors and the IT Manager replied the vendor providing Option #3 was a government and state vendor through the Virginia Information Technology Agency.

Council Member Risner moved, Council Member Ryan seconded, approval of the report and recommendation as submitted.

Council Member Jenkins stated he would be voting no to the motion and suggested this item be tabled for thirty days so that he could review this information with staff to further understand each of the options presented.

Council Member duFrane asked if the town would immediately be fined by Microsoft for being in violation and the Town Manager replied that staff had identified the problems and were working toward a solution as quickly as possible.

The motion was defeated by the following voice vote: Ayes: Rimeikis, Risner, Snider, Yowell (4); Nays: Coleman, duFrane, Jenkins, Olinger, Ryan (5); Absent: (0).

Discussion ensued regarding the need to be in compliance and it was the consensus of council to table this item for 30 days for further review by the Finance, Personnel, Technology, & Ordinance Committee in January.

The IT Director stated the proposal this evening also included the Symantec Backup Executive license for data back-up, which could not wait an additional 30 days due to the necessity of backing up all files.

Council Member Snider moved, Council Member duFrane seconded, to authorize the Town Manager or his designee to purchase the Symantec Backup Executive in the amount of \$3,025.96 from SHI. The motion carried by the following voice vote: Ayes: Coleman, duFrane, Jenkins, Olinger, Rimeikis, Risner, Ryan, Snider, Yowell (9); Nays: (0); Absent: (0).

R/R Re: Employee Uniform Bids

Town Manager Muzzy presented the report and recommendation that stated bids were opened on November 25, 2008 for a three year uniform rental contract to begin on January 10, 2009 and end on January 9, 2012. Four bids were received.

G & K Services from Fredericksburg submitted the low bid of \$33,396.48. They were \$4,711.72 lower than Cintas Corporation, our current provider, and \$4,568.72 lower than our current contract.

The cost to the Town would be \$33,396.48 and sufficient funds budgeted in the various user departments to cover this cost.

It was recommended that Town Council accept the bid of G & K Services of \$33,396.48 to provide uniforms and authorize the Town Manager to enter into a three year contract that will be implemented January 10, 2009 and conclude January 9, 2012 to provide this service.

Council Member Snider moved, Council Member Olinger seconded, to accept the bid of Cintas Corporation in the amount of \$38,108.20 to provide uniforms and authorize the Town Manager to enter into a three year contract to be implemented January 10, 2009 and conclude January 9, 2012.

Discussion ensued regarding Virginia Procurement law and the Town Attorney stated the motion would not comply because the bid from Cintas Corporation was not the lowest bidder.

Council Member Jenkins disclosed he was a former employee of Cintas and has family members that work for Cintas; however, he would not be able to support the motion due to the legality of the bidding process.

Discussion ensued with the Town Attorney explaining the ramifications that could occur if the procurement law is not followed.

The motion was defeated by the following voice vote: Ayes: duFrane, Olinger, Ryan, Snider (4); Nays: Coleman, Jenkins, Rimeikis, Risner, Yowell (5); Absent: (0).

Council Member Olinger moved to re-bid the contract, seconded by Council Member duFrane. The motion was defeated by the following voice vote: Ayes: Coleman, duFrane, Olinger, Snider (4); Nays: Jenkins, Rimeikis, Risner, Ryan, Yowell (5); Absent: (0).

Council Member Jenkins moved, Council Member Risner seconded, to accept the report and recommendation as submitted, which would accept the bid of G & K Services in the amount of \$33,396.48 to provide uniforms and authorize the Town Manager to enter into a three year contract that will be implemented January 10, 2009 and conclude January 9, 2012 to provide this service.

The motion carried by the following voice vote: Ayes: Jenkins, Rimeikis, Risner, Ryan, Yowell (5); Nays: Coleman, duFrane, Olinger, Snider (4); Absent: (0).

R/R Re: Amendment to Council Rules of Procedure-Addition of Fourth Member to Standing Committees

Town Manager Muzzy presented the report and recommendation that stated Council and staff recently met with Maria Everett, Executive Director of the Virginia Freedom of Information Advisory Council, who along with Town Attorney Bendall gave an overview of the July 2008 Virginia Freedom of Information Act.

One of the topics discussed at length was the fact that three or more members of council gathering to talk about public issues was considered a meeting under FOIA. Further, two council members (a quorum of a current council standing committee) discussing Town business was also considered a meeting under FOIA.

Mrs. Everett encouraged council to add a fourth member to all of its standing committees so that two members of a committee could discuss Town business without it being considered a meeting; however, this change would require three (3) members of each committee to be present at a meeting to obtain a quorum for conducting business.

Therefore, your committee is recommending that Section 2.2, Standing Committees Enumerated, of Council's Rules of Procedure be amended to require all standing committees to have four (4) members (instead of the current three members).

It is recommended that Council approve the amendment to Section 2.2, Standing Committees Enumerated, of Council's Rules of Procedure to show all standing committees having four (4) members. It is further recommended that council ratifies the revised Council Committee Listing (including the appointment of Jim Risner to serve on the Finance, Personnel, Technology, & Ordinance Committee and Pranas Rimeikis to serve on the Light & Power and Water & Wastewater Committee, Town & County Interaction Committee, and the Public Safety, Public Works, Planning & Community Development Committee) effective immediately.

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

Mayor Rimeikis commented this would not affect the Town & County Interaction Committee since that committee already has six (6) members.

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

Additional Employee Holiday--Friday, December 26, 2008

Mayor Rimeikis recommended granting town employees Friday, December 26, as a town holiday.

Council Member Ryan moved, Council Member Coleman seconded granting Friday, December 26, as a town holiday for employees.

Council Member Snider questioned how the additional holiday would affect the advertised trash collection schedule. Public Works Director Thornhill responded the refuse collection crews would have to work on December 26 due to the Christmas holiday trash collection schedule; however, he suggested these particular employees be given another day off in place of December 26. By general consensus, Council agreed with this suggestion.

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

REPORTS & RECOMMENATIONS FROM TOWN ADMINISTRATION

R/R Re: South West Street Property Purchase

Town Manager Muzzy presented the report and recommendation that stated Council desired to acquire TM 41A2-1-K-9 on South West Street in the amount of \$9,900 plus a \$500 service fee. Additional funds may be necessary for closing expenses but the totals are unknown at this time.

Funds in the amount of \$10,400 will need to be transferred from General Fund Contingency 9990-9990 to General Engineering 4101-5214 for the property purchase.

It was recommended that Council authorize the mayor and manager to execute the necessary acquisition documents and transfer funds from 9990-9990 to 4101-5214 for the expenses associated with the purchase of parcel TM 41A2-1-K-9.

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

Council Member duFrane requested an estimate for the closing costs. Town Attorney Bendall estimated the closing costs would not exceed \$1,000 and stated he would report the actual costs at the special council meeting on December 13, 2008.

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

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

COMMUNICATION & CORRESPONDENCE: There was none.

ADJOURNMENT: Council adjourned at 8:58 p.m.

Clerk

Mayor