

**Hamilton Town Council
January 11, 2010
Hamilton Town Office**

Mayor H. Ray Whitbey called the meeting to order at 7:11 PM.
The Pledge of Allegiance was followed by Roll Call.

Present: Mayor H. Ray Whitbey, Mr. Tom Rollins, Mr. Greg Wilmoth, Mr. Ken Wine,
Mr. Brent Campbell, Mr. Michael Snyder.

Absent: Vice Mayor John Unger

Also Present: Ms. Maureen Gilmore, Town Attorney

Ms. Lori Jones, Treasurer

Mr. David Beniamino, Zoning Administrator

Mr. Robert McCann, Planning Commission Chairman

Guests

Ms. Margaret Morton, Leesburg Today

Deputy Matt Bressler of the Loudoun County Sheriff's Department reported that there was nothing noteworthy happening in the Town. The usual traffic stops are taking place and he advised Council that if they need additional presence to please let him know. Ms. Jones gave the Park Sign to Deputy Bressler to review the verbiage that was used. He advised that he will take this information to the Commonwealth of Virginia to ensure it is complete.

Minutes

Mr. Wine made a motion to adopt the amended November 9, 2009 Town Council minutes into record. Mr. Wilmoth made a second on the motion and the vote passed 6-0-1, (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none. Absent: Unger).

Mr. Wine made a motion to adopt the amended December 14, 2009 Town Council minutes into record. Mr. Wilmoth made a second on the motion and the vote passed 6-0-1, (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none. Absent: Unger).

Mr. Campbell made a motion to adopt the January 6, 2010 Special Town Council meeting minutes into record. Mr. Wine made a second on the motion and the vote passed 6-0-1, (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none. Absent: Unger).

Mayor's Report

Mayor Whitbey advised that Mr. Unger is absent today because his wife had a skiing accident over the weekend and has undergone hip replacement surgery. Mr. Snyder made a motion to send her a fruit basket or flowers or whatever is appropriate. Mr. Wilmoth made a second on the motion and the vote passed 6-0-1, (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none. Absent: Unger).

There is a Loudoun Water Meeting January 20, 2010 and Mayor Whitbey, Mr. Wilmoth and Mr. Snyder will be in attendance.

The Hamilton Ruritans made a donation of \$400.00 to the Town. This will be used to replace flags, as necessary, along Colonial Highway.

Mayor Whitbey advised that the Financial Disclosure Statement is required to be completed by all elected officials and is due in the office by January 15, 2010. This is mandatory for all Council members.

The Luminaries were cancelled on December 24, 2009 due to snow and were rescheduled to be lit for New Years but was again cancelled due to rain. This is the second year in a row that the Luminaries could not be lit due to weather. Mr. Wine has spoken to Loudoun Milling and they advised that they do not want the sand back and Mr. Wine will work with Mr. Lemarr to see where the sand might be used in Town.

Mr. Campbell made a motion to amend the agenda and to move the Gallagher's up from Old Business to now be after the Mayor's Report. Mr. Rollins made a second on the motion and the vote passed 6-0-1. (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell, Nay: none. Absent: Unger).

Old Business (verbatim)

Ms. Gilmore: I sent you all an email late this afternoon. I had spoken with the County Attorney after hearing from Bond Counsel for the Town who, has also spoken to Bond Counsel for VRA. They pointed out in the Service Agreement that first their opinion, or their reading of the Service Agreement, the Service Agreement and the loan documents, the fact that the County is contributing towards the repayment of the loan and the creation of the Sewer Tax District were major reasons that VRA made the loan in the first place to the Town. With the Town's financial situation at the time back in 1998/1999 they really were persuaded to make the loan by the County's involvement and so they suggested that the County and the Town work together on resolving the matter. There is a provision in the service agreement with the County on page 4 of the Service Agreement, 16B which says that the County acknowledges that the Town shall not be responsible for financing the hook up fee for any property in the service area. The provision of financing for such purpose, if any, shall be the responsibility of the County. I talked at length with the County Attorney last Monday and again today and exchanged some documents because the County is having trouble finding their copies of the documents. The good news and the promising situation as I communicated to all of you last week is that the County wants to be a partner in resolving this for the Gallagher's. The County Attorney has not approached any of the Board members and has not gotten any authorization but believes that the Board of Supervisor's would be amenable to amending the Sewer Tax District Ordinance to allow the Gallagher's to be in the Sewer Tax Ordinance or Sewer Tax District. When the sewer project began back in 1997/1998 it was created and designed to assist people with failing septic fields and since the Gallagher's are having failing septic issues the County Attorney thought it would be appropriate and advisable for them to put the Gallagher's in the Sewer Tax District and that would put make them eligible for getting the tap, and as I said the County Attorney cannot commit where the funds are coming from, he did say the County wants to be a partner with the Town in resolving it so we are working on those details and will be talking with different Board members about it.

Mr. Campbell: Who does Mr. Anderson represent?

Ms. Gilmore: He represented the Town.

Mr. Campbell: who does he represent today?

Ms. Gilmore: he represents the Town.

Mr. Campbell: today?

Ms. Gilmore: yes because that is a continuing representation.

Mr. Campbell: Does he speak for VRA? Does he have the authority to speak on behalf of VRA?

Ms. Gilmore: if VRA gives him that authority...

Mr. Campbell: does he have it today or not?

Ms. Gilmore: I can't answer that

Mr. Campbell: that is an important question in my mind

Ms. Gilmore: well Brent as you can see from the minutes there was quite a bit of discussion about Bond Counsel, VRA Counsel

Mr. Campbell: let me read from...

Ms. Gilmore: as you know after you spoke with me on December 22, I called Mr. Anderson the next day and asked him to forward the information to VRA's Counsel. He has been in touch with VRA's Counsel. They have discussed the issue. I believe currently VRA does use McGuire Woods, the same law firm Mr. Anderson is with, for their bond transactions. At the time back in 1999 when the sewer loan from Hamilton took place I don't know if McGuire Woods represented VRA at that time.

Mr. Campbell: that doesn't matter at this point. You know what Mr. Snyder said here, and this is my understanding, well speaking for me and I have talked to everybody here but Mr. Snyder said that hey, I am hearing is that this specific argument, cause you have said this is my interpretation of it, and we have another Attorney who has a different interpretation of it, and Mr. Snyder says this specific argument hasn't been presented to VRA. So what I am saying is let's present it, let's get it to VRA.

Ms. Gilmore: it has been presented to them.

Mr. Campbell: what is difficult to me is Mr. Anderson does not, he either represents VRA or he doesn't. I would like our letters, the letters, the information that has been compiled to go to VRA, whoever represents VRA and can speak on their behalf.

Ms. Gilmore: and I believe that's been done.

Mr. Campbell: so Mr. Anderson, if Mr. Anderson comes to us and says hey this is my opinion that it should be X and that speaks for VRA? VRA is saying that whatever Mr. Anderson says goes for us, he is speaking for us?

Ms. Gilmore: I will request something in writing from Mr. Anderson.

Mr. Campbell: so you're unclear about that right now?

Ms. Gilmore: well, I know that what Mr. Anderson told me last Monday is that he has spoken with VRA.

Mr. Snyder: let me change topic. What you're saying is, what I understand, what you are saying now you are saying now is the County may finance this.

Ms. Gilmore: yes

Mr. Snyder: so the Town will be off the hook for...

Ms. Gilmore: yes

Mr. Snyder: for financing it which is a good thing for the Town

Ms. Gilmore: I think that is a good thing for all the parties involved. I think that this Council is to be commended for the many ways they have tried to consider alternatives to ease the financial burden of the Gallagher's. You have discussed this at your last 3 meetings, you've made motions, your official actions, you have approved a sewer connection for a property that is outside the Town limits because there is a desire to help the Gallagher's. I think that is a very commendable thing and you have tried to ease the burden on them. So I think you are right Mike, I think that the very good news is that the County is willing to step in and assist.

Mr. Snyder: I love praise but I like money more, but I just wanted to make sure I understand this. What you are saying is that in addition to, that there is no dispute if the County wishes to finance it we do not have a loan problem. That is everybody agrees on that.

Ms. Gilmore: that's correct.

Mr. Snyder: ok. And so if they say yes it is a done deal and it's their money rather than ours?

Ms. Gilmore: we are not loaning...

Mr. Snyder: I understand we...

Ms. Gilmore: and the County may do the same thing and that is where we are now, yes?

Mr. Snyder: and that is where we are now. Do we have any sense about what the timeframe is for that?

Ms. Gilmore: I did talk to Jack about that today and he is going to move that along as quickly as he can.

Mr. Snyder: ok.

Mr. Campbell: I want to talk about that because I think that is a good thing you bring up there. I would still, why do you say in your email that Bond Counsel is talking to VRA's Bond Counsel? To me that does not say that our Bond Counsel represent VRA. He is talking to their Bond Counsel and their Bond Counsel is talking to whoever at VRA, but I don't know who those people are but to me that is 3 parties who are involved. It says right here in your email, I can read it to you or you can read it yourself. It says that Mr. Anderson has presented documentation to VRA's Bond Counsel and VRA's Bond Counsel is discussing the matter with VRA. That is specifically what you wrote.

Ms. Gilmore: as well as their in house Counsel.

Mr. Campbell: great. How does Mr. Anderson represent VRA if that series of events is as communicated in your email?

Ms. Gilmore: I believe in this situation he has represented, the Town has asked him for assistance, or for an interpretation and all that information was presented to him and then he also forwarded that information on.

Mr. Campbell: but see what we were looking for was VRA's interpretation not his.

Ms. Gilmore: right

Mr. Campbell: if his represents VRA, great. That is what I am trying very hard to ascertain. Does the man represent VRA?

Mr. Snyder: the issue is that he is part of McGuire Woods which has like 500 lawyers or something like that, so I guess the question we ought to be asking, or that you need to be asking is whether the firm, what I heard her say, what I understand is that McGuire Woods represented VRA and us in this transaction, the bond transaction, which means, which is not, that does not strike me as being particularly unusual. That may not happen all the time but the question is does he walk down the hall and ask one of the other lawyers?

Mr. Campbell: The question to me is are we paying for, we have an Attorney here and we have an Attorney here, are we paying for a third Attorney to then go and talk to another Attorney cause he is talking to VRA's Bond Counsel? I don't know who VRA's Bond Counsel is but he is not talking to himself, he is talking to another party, I do not know who that is but the issue is that the Gallagher's and us were paying more money to have Bond Counsel look at this thing. I think we were under the impression; I certainly was when you brought that up, that in order for VRA to look at this issue we had to contribute some funds to pay for their Bond Counsel so they're not coming out of pocket for it, we are contributing money. But it was VRA it wasn't the Town Bond Counsel. That was the issue and I feel like we are spending money on another opinion that may or may not represent VRA's position on it, you know. Mike had brought up and said look, do we know VRA's position and no we don't so let's get VRA's position, and that's my frustration and it appears this gentleman is not representing VRA. I feel like we have been going around the bush on that but I want to know who speaks for VRA because according to your emails he does not, but we are paying him money and the Gallagher's are paying him money too.

Ms. Gilmore: we don't know if we will be billed for it but...

Mr. Campbell: well then when we did the motion you said that we need to be prepared to spend a couple thousand dollars

Ms. Gilmore: I didn't say a couple thousand dollars Brent

Mr. Campbell: who what are we talking about, 1500 bucks or 2000 bucks or something, wasn't that what we were talking about?

Mr. Snyder: could be up to that

Ms. Gilmore: and that was because the Town Council meets once a month if we were to, when I had the initial conversation with the Attorney it was to say we will charge you X dollars per hour I needed to have some authorization to tell him to go ahead and that is why I brought up the issue or suggested that it may cost us. I had not talked to him any further.

Mr. Campbell: sure

Ms. Gilmore: when we first discussed these issues with McGuire Woods they did not send us a bill, they did not charge us, now we are asking us to do additional work. I explained to him that the Town was certainly a very small Town with not a lot of, we do not have a lot of money budgeted for this so we see if he bills us. I know that at our request he forwarded everything to VRA. So if you would, I think the easiest thing would be, and again I think is very hopeful in how we will move forward with this in a short timeframe is working with the County to work with the Gallagher's to get the fee funded, get the connection fee funded so they can continue with their construction.

Mr. Snyder: They did that, they did that

Ms. Gilmore: that was the motion

Mr. Snyder: that was part of the original for those of you who were not on the original Town Council, they were part of the, they financed I don't know how many, they made loans to people and what I like about this is that was part of the original deal. I mean they said ok, we're going to do this cause the other piece of it was when we first started thinking about it and getting the money we expanded the area to include that area to people who might not be able to afford the hook up but who had failing drain fields, and that is one of the reasons the County stepped up to the plate and said we will give you so much a year because we know it's going to cost you more and this benefits us as well as you and we will finance it. Those were low income people and I think it was Delaware Avenue and Maryland Avenue and Brownsville. I think that was one of the original issues because I think we had originally thought about going into...

Mayor Whitbey and Mr. Wilmoth: Curry Springs

Mr. Snyder: first, that's what we were thinking about originally because that was the most, that was contiguous, it was the cheapest and it was the problem that most greatly affected us and when we started talking with them, I think we started talking to them George Washington, Dr. Washington was still on the Board and they said well we would like to expand it and that is how it got so big really. And then they said we will give you some money every year, which they have to appropriate every year and I hope they keep appropriating. And we will pick up the tab to finance these and if they are still willing to do that is hey, that is a good thing.

Mr. Wine: well rather than continue to drag this out for hours and hours as we have done in the past few meetings, aren't we speaking so far to a mute point if the County decides to do this? Isn't this going to become a mute point anyway?

Ms. Gilmore and Mr. Snyder: Yes, Yes

Mr. Campbell: I would ask something because a separate issue is what the fee should be and that was the question to VRA, what should the fee be, not whether it should be financed or could be financed, that was not the question. The question is what should the fee be \$6500 or \$25000? That is a separate issue to me, whether the County agrees to finance it, if they finance it, great. Are they going to finance \$6500 or is the County going to finance \$25000? That is a separate thing and could the County agree to finance \$6500? Or is VRA going to have a problem with that?

Mr. Snyder: I think what she is saying is that VRA is saying is you can't, under your agreement, you can't finance anything but the County can and so go talk to the County and see what they are willing to do.

Mr. Campbell: which still does not answer the question of the fee thing, which to them is an important issue.

Mr. Snyder: well it may be an important issue to them but the important issue to me is that they are saying you, the Town cannot do this but the County can and the County is apparently willing to do it so

Mr. Campbell: Yeah, that's very interesting because we have been talking about financing this for like 5 years so we can't finance stuff, that's a no no for us?

Mr. Wine: as far as that type of fund, we cannot finance anymore.

Mr. Campbell: we can't finance connections period? Is that is the new information?

Ms. Gilmore: under this loan agreement.

Mr. Wine: under that loan agreement, yes.

Mr. Campbell: was there a different rationale that we were trying to finance this over the last few years or not? It was just a misunderstanding.

Mr. Snyder: I don't think we...

Mr. Campbell: which is fine, which is fine

Ms. Gilmore: I don't think there was a misunderstanding.

Mr. Campbell: I am just trying to understand as we move forward.

Ms. Gilmore: I think the Town Council was trying to help out the Gallagher's

Mr. Campbell: Of course, everybody is trying to help out and stay within our legal bounds here.

Ms. Gilmore: The Town has never done this before; there is no other situation like this. It is very unique and I think that...

Mr. Snyder: I think I made the motion and I think I was trying to help them out and open mouth insert foot, ok? So, I think I did any everybody who was here thought it was a good idea at the time

Mr. Wine: and we didn't look back through this to see if it was ok?

Mr. Snyder: we didn't

Mr. Wine: we did not, you did not at that time or we did not at this time?

Mr. Snyder: we did not, I did not

Mr. Campbell: that's all fine but so I am clear we cannot finance connection fees we cannot finance any of that per our agreement there?

Mr. Wine: correct

Ms. Gilmore: In this sewer loan...

Mr. Campbell: prohibits it

Ms. Gilmore: in this Service Agreement, now that doesn't, the Service Agreement that we signed with the County contains the provision that says the Town shall not be responsible for financing

Mr. Campbell: and you're saying that the agreement that we signed with the County was part of our loan with VRA?

Ms. Gilmore: absolutely, that's what VRA made very clear.

Mr. Campbell: alright

Ms. Gilmore: that they probably would have not made this loan but for the Service Agreement.

Mr. Campbell: since they are contributing moneys 88 whatever it is a year...

Ms. Gilmore: and they created the Sewer Tax District and was created to pay for the loan to help pay for the failing septics and I think that's why the County Attorney feels comfortable with this type of situation helping a failing septic.

Mr. Snyder: It fit in the whole thing,

Mr. Campbell: yet again the amount of it still needs to be addressed. I would love for the County to finance this but again the amount that they are financing needs to be addressed, that can't be open ended and that has been the center of these discussions over the last couple of months, what is the fee? We really have been discussing who is financing it, we were under the impression we could finance it, it is just a matter of what number. Maureen, in your opinion do we still need to hear from VRA for what that amount should be if the County agrees to finance it?

Ms. Gilmore: VRA is not inclined to interpret the ordinance to allow the fee to be \$6500, I was told that last Monday. I will get something in writing from VRA for you.

Mr. Campbell: ok

Ms. Gilmore: ok

Mr. Wine: that sounds good, get something in writing that states we can or cannot

Ms. Gilmore: well, I guess now it changes to what the fee would be

Mr. Wine: right, can or cannot have the fee at \$6500 or \$25000, whatever the case may be. A definite yes or no.

Mr. Campbell: and that's not going to be from Mr. Arthur Anderson but from somebody else correct?

Ms. Gilmore: I will get it from VRA, yes.

Mr. Campbell: and we don't know who that is yet but it will be somebody VRA has authorized to speak on behalf of their organization?

Ms. Gilmore: I am assuming it will be if they will give us something in writing.

Mr. Campbell: well you understand why I am trying to understand this very clearly here since we have gone back and forth on this. So are we on the hook to pay Mr. Anderson some money for his...

Ms. Gilmore: I don't know, I have not received a bill from him. As soon as, would you like me to ask him if he is going to send us one?

Mr. Campbell: well normally when you hire Bond Counsel either you know they are doing this as a favor or it is clear I am so much an hour and I am going to bill you.

Ms. Gilmore: actually, with Bond Counsel their bill is presented at the closing and they get paid out of Bond proceeds.

Mr. Snyder: let's just wait and see what happens.

Mr. Campbell: well you do understand that we were supposed to talk to VRA? All this stuff got sent to Mr. Anderson and that is what started this is cause Mr. Anderson does not represent VRA. That is the issue. If he represented VRA fine but he does not represent VRA. And the whole idea was to send this discussion to VRA so we could get an answer and that is why all this took place. Mr. Anderson does not represent VRA, he represents the Town, our Bond Counsel. Which again it is fine to have Bond Counsel, I do not have a problem with that but we were sending it to VRA. So as long as we hear from VRA and again does VRA know our position on the matter?

Ms. Gilmore: yes

Mr. Campbell: have you written them a letter on that or did you just call them? How were they made aware of it?

Ms. Gilmore: I talked with them, everything was forwarded to them, I had a conversation with Mr. Anderson, I told him what the Town Council's desire was, we discussed that again on Monday. And he has talked with VRA so he made it clear to them that that was the Town Council's feeling on the matter.

Mr. Campbell: so the only letter the VRA has seen is the one you wrote to Mr. Anderson on December 20?

Ms. Gilmore: no it is December 18

Mr. Campbell: December 18, you are correct

Ms. Gilmore: and Ms. Rosati's letter and the Sewer Ordinance

Mr. Campbell: right, so those are the only 2 letters the VRA has seen. That was my problem because that particular letter you wrote to Mr. Anderson did not at all, in my opinion, represent the Town's position that hey, we would really like to this if you are ok with it. And if I'm VRA and I am reading it that is not clear at all. And that's

Ms. Gilmore: they know that now

Mr. Campbell: my concern is, is that it's not in writing. I don't know how when you play the telephone game and it just goes from person to person and it's just so and so said so and so said so and so, I would like that to be in writing to VRA, it doesn't have to be long, just 1 page letter but just to say that Town Council would like to extend this to the Gallagher's for \$6500, are you guys ok with that? It can be very brief but that was not communicated at all in this letter and I was not ok at all with that letter.

Ms. Gilmore: well I did, as you know, send out a letter to the Town Council and asked for some feedback on that because

Mr. Campbell: and I told you that I did not like this letter and I asked you to rewrite it and resend it to us before you sent it back out.

Ms. Gilmore: And I understand that if the Town Council, if the Town Council as a whole would authorize me to do that, I can't just do what 1 Council member asks.

Mayor Whitbey: that's right

Mr. Campbell: and the issue there is that, I will let you gentlemen speak for yourself, but I called all of you and I am not operating in a vacuum here, and this was not our understanding when we made the motion at the meeting. So it is not that we are making, in my mind we were taking a new direction, it is just that there was some miscommunication at the meeting and that we wanted to have the thing clarified. And that is why I asked you if you could please send the letter to all of the Council members so that they can look at it and if everybody is good with it then great, send it.

Ms. Gilmore: as the Town Attorney I represent the Town Council as a whole.

Mr. Campbell: right

Ms. Gilmore: when the Town Council takes official action I am happy to implement what ever direction I am given. But it would not be appropriate for, without having the Town Council authorize it to take an action, and I did not hear from any other Council members. I appreciate your concerns and I tried to address those as quickly as possible, we spoke at 10:30 on December 22

Mr. Campbell: right and I thought we were clear.

Ms. Gilmore: and I told you I would call the next morning, which I did. And I think that, or as you all know, when you are going to take an action you need to meet. And so when I sent out a summary of what I had done, I did ask Council members and offered if that was the desire, authorization and the direction the Town Council was taking, I am happy to do that.

Mr. Campbell: and I sent you an email the following day, none of the other Council members evidently did but,

Ms. Gilmore: no, I did not hear from any other Council members.

Mr. Campbell: so you get 1 email from 1 Council member, do you have to get a majority of emails, is that how it works? I don't understand, I mean I am on the Council,

Mayor Whitbey: Mr. Campbell, let me do this. Let me get with Maureen tomorrow, we will circle the wagons and we will cover the points that you have brought up. I will get with her and I will make sure we will handle this item, we'll talk to VRA and make sure they understand. If they need something in writing I will make sure it gets to them.

Mr. Campbell: even if they don't request it I would like it to be in writing, I don't want it just a phone call.

Mayor Whitbey: I will ensure that we will do whatever it takes to make sure VRA understands the Town Council's position.

Mr. Campbell: I want it in writing, that's my, maybe I mean, I don't know if you all do but I'm willing to make a motion on it that too, I want it in writing

Mayor Whitbey: I just said that if they want it in writing I will give it to them in writing, it is not a problem.

Mr. Campbell: my position is I don't care if they want it in writing or they care if it is a telephone call, I would, my position, just speaking for myself here, if you all want it to be just a telephone call, fine, but I would like it, personally, in writing. I think the thing should be in writing to VRA. That's how these things should be communicated, in my opinion.

Mayor Whitbey: and I agree and we will ensure that you get the appropriate action and answer.

Mr. Campbell: does that mean we are going to put it in writing?

Mayor Whitbey: yes, I will ensure we will do whatever it takes to ensure this thing is resolved for you.

Mr. Campbell: ok, thank you. Then you're going to put it in writing, I just want to understand right now.

Mayor Whitbey: are you finished now? Have you completed your conversation?

Mr. Campbell: I am just trying to understand this because I thought we were clear last month.

Mayor Whitbey: I have told you repeatedly we will, I will resolve it, I will put it in writing and get back with you, I promise.

Mr. Campbell: and I really appreciate that, my concern is just the methodology in which that had gotten

Mayor Whitbey: I understand. Ok.

Mr. Campbell: do we need to make a motion to send this as a letter. Is that what you need Maureen so that we have consensus here, do you feel like that's appropriate?

Mayor Whitbey: no I do not. I just said as Mayor that I would handle it, I would do it, If I don't do it then I don't feel I need to be sitting here, so is there an issue with that?

Mr. Campbell: I have no problem with you doing that

Mayor Whitbey: well good

Mr. Campbell: I just want a letter sent and I would like a chance to look at the letter prior to it getting sent.

Mayor Whitbey: Mr. Campbell: we will handle it, I think as Mayor, I don't really circulate stuff for individual review but I will ensure that everything you want is in that letter. I think we understand what you're looking for now. I am not trying to pick a fight, I am just saying look, I understand want, I would like to move on and we will ensure that what you brought up tonight, this evening, is recorded here, we will make sure everything Mary, you'll summarize this 15 minute conversation and I promise you that you will have everything you want in a written letter to them as a matter of understanding.

Ms. Tussing: it will be word for word

Mr. Campbell: fantastic, thank you very much.

Mayor Whitbey: alright, thank you.

Ms. Rosati: Good evening Mr. Mayor and members of the Town Council, very briefly, we appreciate all of your efforts. We have made a couple of requests in the last 30 days since we last met for the Gallagher's permit to be issued. As I am sure as you are all very well aware, we are really running out of time and they are going to lose that grant money if they can't start construction basically right away. I said in the Council's last meeting, December meeting, it was not really your last meeting, I pointed out at that time that the 2 ordinances do not require these payments prior to the issuance of permit, we asked the Mayor to issue the permit at that time,

we've reiterated that request twice since in writing, and we respectfully request that permit be issued immediately so the construction can commence, because, I mean we are talking about what, potentially \$25000 for the tap and availability and hook up fee and another 20 or 25 to do the construction. Without that grant money it is \$50000 and it is really not even a question or not if the Gallagher's can afford it but what is the house worth? And every day that we delay the chance becomes less and less that construction can get done in time for them to get that grant money. And I submit to the Council one more time the Sewer Ordinance does not require payment before the issuance of the permit and in fact it says within 30 days of final approval. So I submit to you that not only can you issue that permit tonight, that you should and I respectfully request that you do that. And I know that we have a lot of discussions on this issue, speaking for the Gallagher's we appreciate it and do not want to keep everybody here all night but they really need that permit.

Mayor Whitbey: ok, thank you.

Water & Sewer

Well 14 Generator Update - Mr. Wilmoth and Ms. Gilmore advised that they are still waiting on Zoning to give information on this.

Integration Plan – Mr. Rigby was given an opportunity to submit a plan which should be here this month and he has submitted a contract to the Town which is being worked on. There is a short term question on integration concerning the clay valve and the potential use for that to feed the Town. A bid has been received from Interlogical to make that valve operational and the Town is now waiting in information from Stantec. Mayor Whitbey will contact Mr. Bowers and preliminary costs were discussed. This change would allow the system to interface with any system the Town puts in, per the recommendation of Mr. Albrecht. The clay valve is in place but the actuators are not. Mr. Snyder stated that the needed money should be a part of the CIP budget.

Mr. Campbell: Greg say I interrupt for just a minute?

Mr. Wilmoth: yes sir

Mr. Campbell: Ms. Rosati asked for an answer on that and I, with her statement there, and I feel like we owe her a yes or no, whatever it may be, but I, she has asked several letters and here for whether or not we are going to issue the permit, if it is no it is no, but I think there needs to be an answer instead of just moving on and not addressing that. I think we need to make some kind of an answer, I think that's fair.

Ms. Gilmore: you have a motion in the November 9th meeting that Mr. Wilmoth made approving the application and connection with a signed Deed of Trust, which will give the Mayor the authority to sign and issue the permit, on page 12 of the November minutes.

Mr. Campbell: Ms. Rosati, so I'm clear and so the Council is clear, you are asking that the Mayor sign the permit, I think where the hang up is what are the stipulations attached to that permit?

Ms. Rosati: that's correct. What we've asked for a couple of times in writing is, is it the position of the Town that the permit cannot and will not be issued unless the payment is made or you know, as I call it, a proxy payment, loan documents are executed. Now it sounds as though that there is no way loan documents will be executed to the Town because the Town has now learned that they apparently cannot have the authority to do this, so if it the Town's position that the Town is not going to issue a permit, and that the issuance of the permit that has been requested is going to be conditioned on payment prior to issuance, then we would like to know that.

Mayor Whitbey: the County's new involvement does alter somewhat the interpretation of the motion that we made.

Mr. Campbell: and the motion that we made is not what she is asking us to do anyway, again if the Council's answer is no it's no, if it's yes it's yes, but it needs to be something is all I am saying.

Mr. Snyder: we have a closed session, I assumed that is what was, I assumed that is what that was about. Could we give her an answer tomorrow?

Mayor: sure

Mr. Campbell: can you wait until tomorrow, are you fine with that?

Ms. Rosati: that will be fine, thank you very much.

Mr. Campbell: is the issue, how are we to address or discuss or when are we planning to address or discuss this issue with the County because I heard you talk earlier Maureen you said the agreement between the County and us would have to be amended in order for those to be financed, is that not correct?

Ms. Gilmore: no, that is incorrect.

Mr. Campbell: what was the amendment that you were referring to?

Ms. Gilmore: the County Sewer Tax Ordinance

Mr. Campbell: that's what would need to be amended

Ms. Gilmore: correct, by the Board of Supervisors

Mr. Campbell: so, in order for the County to finance the Gallagher's fee...

Mr. Snyder: they're on 704, those people opted out, they didn't want to be, I don't think the Gallagher's owned the house then but they didn't want to be a part of it for reasons that escaped me but they said no, they were very adamant about that, whomever the homeowners were along 704 North...

Mr. Wine: at that time

Mayor Whitbey: all of 704 North

Mr. Snyder: because it was a great idea, it just all flowed down hill, it was a gravity line. There were all sorts of reasons it was a good idea but...

Mr. Campbell: so the BOS needs to amend the Sewer Tax District and include them in it in order for them to consider financing it. Is that correct, am I..

Ms. Gilmore: yes

Mr. Campbell: ok

Ms. Gilmore: and the County Attorney is planning on talking to them but has not brought it up to the Board yet.

Mr. Campbell: and in order for the Board to initiate that they would need to have cooperation and participation from the landowner, would they need a letter or something from us or the question is how does that get initiated at the BOS level?

Ms. Gilmore: I don't know, we will ask the County Attorney.

Mr. Campbell: ok, I guess we still need to find that out.

Mayor Whitbey: ok, so we will give you an answer within the next 48 hours, how is that?

Ms. Rosati: thank you Mayor Whitbey. Am I correct in understanding that the amendment to the Ordinance would require notice and public hearing?

Ms. Gilmore: yes

Ms. Rosati: so there is no way the County will be in a position to finance, no matter what the number is, between now and the time that the grant money for the construction will disappear.

Ms. Gilmore: I don't believe that is the case, according to what the County Attorney shared with me.

Ms. Rosati: so the County Attorney thinks the Ordinance can be amended and that construction be done in 17 days?

Ms. Gilmore: I will discuss it with the Town Council in Closed Session.

Mr. Campbell: I don't see how that can happen, I think the answer is no, I mean the Board of Supervisors is not going to amend the Sewer Tax District, have a public hearing and all that in 2 to 3 weeks, or is it possible, we don't know the answer to that, is that the answer?

Ms. Gilmore: I think there is some flexibility in the timing.

Mr. Campbell: is it possible we can make the deadline?

Ms. Gilmore: I will discuss it with you in closed session

Mr. Wine: I think what she is saying is the word, what she got from the County Attorney was there may be some flexibility in the timing in the grant.

Ms. Gilmore: in the grant, yes.

Mayor Whitbey: alright, we'll get back to you.

Ms. Rosati: thank you.

Water & Sewer (continued)

DEQ – Mayor Whitbey advised that a formal bid package is needed.

Commercial Availability/Connection Fee Review – postponed due to Mr. Unger's absence. Mr. Beniamino has proposed fee information which is available for review.

Sump Pump – Ms. Jones has prepared a brochure and is looking for ideas from Council so it can be sent to the Town residents to educate and raise awareness. Ms. Gilmore will review the document before it is distributed and Mayor Whitbey thanked Ms. Jones for the beginning effort on the document.

Route 704 – Mr. Schooley will be at the office tomorrow to sign the contract and today is the beginning of the 60 days for completion. The Town will be the owner of the contract but the DEQ will be the payee.

Mr. Wilmoth advised that wells #1 and #4 are pumping again.

Treasurer's Report

Ms. Jones advised that December is the mid year point for the fiscal year. Ms. Jones reviewed the report and advised that checks were higher in December because of how the calendar fell and how the bills were paid. Mr. Wilmoth made a motion to adopt the Treasurer's Report into record. Mr. Wine made a second on the motion and the voice vote passed 6-0-1, (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none. Absent: Unger).

Parks & Recreation

Mayor Whitbey stated that the Hamilton Ruritans have expressed the desire to not be in charge of Hamilton Day but will continue to participate as they have in past years. 4 or 5 volunteers are needed to help organize and the Town Staff can help with the administrative duties.

Public Safety & Zoning Enforcement

Preliminary announcements for the Sidewalk Enhancement Grant are scheduled to be announced in April.

Planning Commission

Mr. McCann advised that there is a meeting schedule January 13, 2010 at 7:30 for the election of officers and 2010 calendar for meetings.

Mr. McCann advised that there is a need for a joint Town Council and Planning Commission in order to complete the final 2 sections of the Comprehensive Plan and Mr. Campbell suggested that the Town Council meet first to discuss and agree on how to proceed and then again with the Planning Commission to discuss the final details.

January 19, 2010 at 7:00 PM was agreed for the Town Council work session and Mr. Beniamino advised that he will email all of the information to the Council for review.

January 26 and February 1 are the choices for the joint meeting and a final date will be sent out once the Planning Commissioners can check their schedules.

New Business

Mr. McCann stated that the Planning Commission did not meet in December but has recommended approval of the 2 ordinance changes heard in the Public Hearing tonight. Mr. Beniamino advised that he has provided a Staff Report for the Council to review and he will be happy to answer any questions.

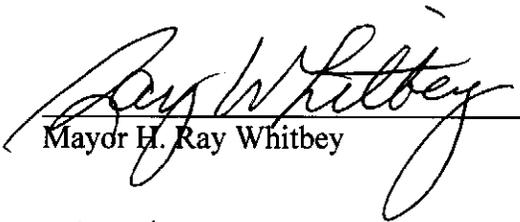
Mr. Wine made a motion to move to accept the change of Ordinance to amend Article 5, Section 11 as stated in the Staff Report for the Manufacturing Home Ordinance. Mr. Wilmoth made a second on the motion and the vote passed 6-0-1, (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none. Absent: Unger).

Mr. Wine motioned to accept the changes and amend the Ordinance of Article 11, Section 5.1 of the Zoning Ordinance as show in the Staff Report. Mr. Rollins made a second on the motion and the vote passed 6-0-1, (Aye: Whitbey, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none. Absent: Unger).

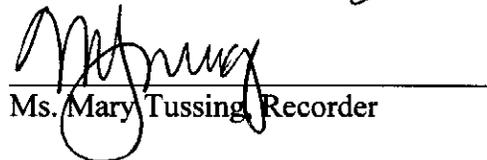
Council entered Executive Session at 9:46 PM.

Council exited Executive Session at 10:21 PM.

Mr. Snyder made a motion to adjourn at 10:29 PM.



Mayor H. Ray Whitbey



Ms. Mary Tussing, Recorder