

**Hamilton Town Council**  
**May 10, 2010**  
**Hamilton Town Office**

The meeting was called to order at 7:17 PM by Mayor H. Ray Whitbey.

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

Also present: Mr. Robert McCann, Planning Commission Chairman  
Ms. Lori Jones, Treasurer  
Ms. Maureen Gilmore, Town Attorney  
Mr. David Beniamino, Zoning Administrator

**Guests**

Ms. Margaret Morton, Leesburg Today

**Minutes**

Mr. Unger made a motion to adopt the April 12, 2010 Town Council meeting minutes as amended into record. Mr. Wine made a second on the motion and the vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

Mr. Wine made a motion to adopt the April 22, 2010 Special Town Council meeting minutes as amended into record. Mr. Wilmoth made a second on the motion and the vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

**Mayor's Report**

Sidewalk Grant Update: notification has been delayed about 30 days

Town Signs Update: waiting on VDOT, notification is expected in about 2 weeks

Reston Bike Club: Mr. Snyder made a motion to allow the Reston Bike Club to use the Hamilton Community Park and be allowed to reserve the park pavilion on August 22, 2010 for their Annual Century Ride. Mr. Wine made a second on the motion and the vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

Well 14 Planning Commission Public Hearing / Information Session: An information session will be held May 12, 2010 at 10:00 AM at Harmony Intermediate School to hear concerns. 2 members of the Water & Sewer Committee and Ms. Gilmore will attend. The Public Hearing is scheduled for May 13, 2010 at the Harmony Intermediate School at 6:30 PM. All Council members are urged to attend. Ms. Jones advised that she will contact Mr. David Rigby and request his attendance at both meetings.

Well 14 Paving: Mr. Snyder and Mayor Whitbey will attend a meeting on May 12, 2010 at 10:00 AM to discuss the paving issue with Ms. Sara Howard-O'Brien.

Safety Alert: Deputy Matt Bressler provided an email update on how to protect your valuables in your home. While no instances of theft have been reported in Hamilton warmer temperatures and summer traditionally result in windows being left open, cars left unlocked and more opportunities for theft.

**Water & Sewer Committee (Mr. Wilmoth reported)**

Integration Plan Estimate: Mr. Rigby previously provided an overview at the recent committee meeting and provided a history of the well. A copy of "A Water System Integration & Asset Management Plan" was provided in May 2010 to the Council members and all are encouraged to read the document.

Wastewater Discharge Permit: due date is May 28, 2010 and Mayor Whitbey asked Ms. Jones to provide the information to Mr. Wilmoth for review. After the review is complete the Mayor will sign the Permit, pending the approval of Mr. Wilmoth.

Flushing Program: dead end flushing ends today, May 10, 2010 and is a part of the Integration plan.

Water & Sewer Committee Meeting: some meetings have been held and Mr. Snyder recommends holding off on the adoption of the proposed ordinance changes to allow more time for review and recommended changes to be considered. Mr. Snyder offered to review the information and present language change considerations to the Committee, which will then be sent to the Council for review and consideration.

### **Parks & Recreation Committee**

Mr. Campbell updated the Council on the planning of Hamilton Day to be celebrated on May 22, 2010. Volunteers are planning the event with the following activities planned: the parade will take place from 10:00-11:00 AM, food will be made available by the Ruritans and Cub Scouts, free glitter tattoos, face painting, wiffle ball game between staff and parents of Hamilton and Culbert Elementary Schools, rain gutter regatta, etc. Items that need addressed/obtained are: horseshoe pits need maintained, obtain portable and handicap lavatories, grass needs mowed in the Park, obtain and place extra trash/recycling receptacles, unlock Park chains early Saturday AM, need a truck and driver for the Council to ride in for the parade, need 2 BBQ grills installed that are already in possession of the Town, parade prizes are needed and volunteers to judge for awards, requests have been received for animals to be in the parade (horses, alpacas) and car signs for the parade (oldest resident, school principals, etc). Mayor Whitbey advised that the Ruritans will be in charge of the flagging and parade staging will take place at the Safety Center, led by Mr. Sam Gibson.

### **Treasurer's Report**

Ms. Jones reported that revenue is \$61,000.00 under plan but should neutralize as Property Tax bills come due, they were just mailed in early May. Expenses are high due to Bond payments that were made earlier in the year and since the budget is only annualized for 10 months rather than a 12 month period it should also neutralize a bit. The biggest hit is to the Water Fund due to well repairs that were unexpected but the Sewer Fund is also expected to equalize a bit. Mr. Unger made a motion to adopt the Treasurer's Report as presented into record. Mr. Wine made a second on the motion and the vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

### **Finance Committee**

Mr. Unger reported that there was a FY2010-2011 Budget Meeting, the review is on page 19 and basically the Budget is balanced which includes a .03 cent real estate tax increase that should bring the Town to the same income levels the Town had in FY2009/2010, all due to lower tax assessments.

### **Public Safety & Zoning Enforcement Committee**

Mr. Beniamino reviewed Zoning Violations that just came in:

- 1-the chickens on Sydnor Street are back and Mr. Rollins will be working to help resolve the situation.
- 2- 44 South Woodlawn St, pictures were distributed of junk that has accumulated in the front lot. Previously this was an issue on the same lot with lawn mowers and Mr. Wilmoth assisted in working with the property owner to work toward resolution and will be of assistance again in seeking voluntary compliance.
- 3-The properties at 83 S. St Paul and 90 S. St Paul have tall grass. Neighbors have filed complaints, pictures were distributed and Mr. Beniamino reviewed the Town Ordinance for the Council. Mr. Snyder made a motion for the Mayor to send warning letters to 83 S. St Paul St. and 90 S. St Paul St. and 44 S. Woodland St. asking for compliance. Mr. Unger made a second on the motion. Mr. Wine offered an amendment to wait 5 days before sending letters to allow discussion with the property owners and Mr. Snyder accepted the amendment. The vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

Mr. Beniamino asked if Ms. Pearson's request could be discussed and considered. Mr. Beniamino explained that what Ms. Pearson wants to do is what the Council hoped would occur in previous discussions about the Site Plan; the ultimate phasing of the mobile home park with the final result being more open space between the trailers for reasons of safety. By removing site 3 and relocating it to the proposed new site 3, the homes on 2 and 4 will have more open space from 1 and 5 at the time of replacement. The question is whether the connection that is on the current site 3 meets the provisions of the Ordinance. Mr. Beniamino read the recently adopted Manufactured Housing Ordinance for Council and noted that the language in the non-conforming use section of the ordinance does not allow non-conforming buildings to be knocked down and rebuilt, which is the current situation. Mr. Beniamino believes the real issue is whether Ms. Pearson will have to pay for a new connection if the old connection is abandon. Mr. Wine agreed that the movement of site 3, which will allow for more open space, is a good idea and Mr. Snyder suggested that a motion be made so discussion could take place, as per Robert's Rules. Mr. Unger made a motion to allow Ms. Pearson to move the water and sewer tap from

the current trailer site 3 to the new site 3 as reflected on the plat that was distributed to the Town Council. Mr. Wine made a second on the motion and the vote did not pass 0-7, (Aye: none. Nay: Wilmoth, Whitbey, Snyder, Campbell, Rollins, Unger, Wine.) Discussion that took place is as follows: Mr. Campbell advised that discussion had recently begun to not charge tap owners if they upgraded their tap size and Mr. Snyder stated that this is a different location and he is unsure what the affect would be. Mr. Beniamino stated that it is all 1 property, 1 lot, and Ms. Gilmore asked if it would help to help to discuss the number of taps that are allocated presently since it is 1 parcel and stated that generally the tap stays with the land and the tap count will remain the same. Mr. Campbell asked if Ms. Pearson has 19 taps for 20 homes and Mr. Snyder explained that 1 tap was given to the property and all of the homes are on the same tap. Mr. Snyder expressed concern about the precedent that might be set from this action. Ms. Gilmore explained that a motion would need to be crafted that recognize that there are "X" number of physical connections should cannot be exceeded. Mr. Beniamino stated that the State Code allows for the trailer to be replaced and does not specify that it needs to be in the same location but it does need to be on the same lot. Mr. Snyder believes that the motion as stated is not a good motion and advised that he will not vote for this motion, suggesting instead a rewording of the motion to address the number of trailers in the park.

Mr. Snyder made a motion that Mrs. Pearson be allowed to move her trailers around the property so long as they are substantially the same as the trailers that are there and that there is not an increase in the absolute number of trailers that are on the property, which is 19, and they have to be substantially the same in accordance with the applicable State Code. Mr. Wine made a second on the motion. Mr. Beniamino stated that Ms. Pearson will obviously have to pay for the cost of the connection since the Town will have to provide work to the property. Mr. Snyder restated the motion to say "she can move the trailers around the property as long as she does not increase the number of trailers and they are substantially the same without incurring an additional availability fee. That is my motion and that is what you seconded." The motion was again restated by Mr. Snyder, "Ms. Pearson be allowed to have 19 trailers on the property without paying additional availability fees and she can move those trailers wherever she wants on her property and replace those trailers as long as those trailers are replaced with trailers that are substantially the same as the trailers that are there and in conformance with the State Code." Mr. Wine confirmed that he made a second on the motion and the vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

Mr. Beniamino disclosed information about recent State Legislature that would allow elderly people who need medical care to allow live in a temporary living structure up to 2,000 square feet and be connected to water and sewer. More details will be disclosed in the coming months and Ms. Gilmore advised that there are requirements that must be met for this to occur (family member, Doctor certification, etc) and Mr. Snyder asked if the Planning Commission could review and begin to prepare for this allowance. Mr. Beniamino advised that he would work with Ms. Gilmore but the actual bill is specific of what can be allowed. Mr. Beniamino offered to provide copies of the article which was published in the *Washington Post* for the Council to review.

#### **Personnel Committee**

Mr. Rollins announced that Harold's last day is Friday and asked of anything was being done for him. Mayor Whitbey advised that Harold did not wish for anything to be done and Mr. Wine suggested sending a card with well wishes.

#### **Planning Commission**

Mr. Robert McCann advised that there is 1 draft copy of the new Comprehensive Plan that will be given to the Council tonight and in the best interest of paper conservation an electronic copy will be emailed to all of the Council members to review. Mr. Beniamino asked how the Council wants it presented to them, just a final copy or a copy reflecting all of the edits. Council agreed that they would like a copy of the final proposal without the edits being shown. Mr. Beniamino advised that he will put the plan on a CD and give 1 to each Council member and then reviewed the new maps that will be in the Comprehensive Plan. Mr. Beniamino advised that when he recently met with the County about the proposed annexation some discussion was raised about the Pearson property that is split between the Town and the County. The suggestion was made that this be brought entirely into the Town and Ms. Pearson was approached about the idea. Concern was expressed but Ms. Pearson is amenable to discussion. Mr. Beniamino reviewed the

process for the Comprehensive Plan approval by the County and advised that the Planning Commission will move forward with a Zoning Ordinance review while awaiting approval of the Comprehensive Plan.

### **Old Business**

Mr. Unger made a motion to authorize a Public Hearing for the FY 2010/2011 Budget prior to the June 14, 2010 Town Council meeting at 7:00 PM. Mr. Snyder made a second on the motion The vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

Public Hearing for Water & Sewer Ordinance changes, Mr. Snyder asked to defer until a more detailed review is completed.

Roof Repairs, Ms. Jones advised that 2 estimates have been received and either way the Town will not pay for the repairs, either the person who hit the pole will pay or insurance will pay. Mr. Campbell made a motion to accept the proposal from G.W. VAN NESS Construction INC. to fix the column in front of the Town Hall. Mr. Wine made a second on the motion and the voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

### **New Business**

Mr. Snyder made a motion that the Town of Hamilton adopt Resolution 2010-01 to authorize a refund and refinancing of the existing 2002A Water Bond and that the Town authorize the Mayor to execute all necessary documents for the bond issue. Mr. Unger made a second on the motion and the recorded voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

Mr. Snyder made a motion that the Hamilton Town Council adopt the Schedule of Water and Sewer Availability and Connection Fees to be effective immediately and that the Schedule be incorporated into the Water and Sewer Ordinances. Mr. Campbell made a second on the motion and the voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none). (Schedule provided on page 27 of the Council meeting packet May 10, 2010)

Mr. Snyder made a motion to allow Carrington Homes to have the new sewer availability rates for lots 119 and 123 N. Ivandale Rd. Mr. Unger made a second on the motion. The voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none). Mr. Snyder stated that this is a matter of fundamental fairness and the Town had not adopted the new rates when Carrington Homes made the payment for availability fees. Mr. Snyder made a motion to refund the difference to Carrington Homes between the sewer availability rates adopted this evening and the rates they paid previously at lots 119 and 123 N. Ivandale Rd. Mr. Rollins made a second on the motion and the voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none). Ms. Jones noted that they do not have a water connection which means they do not have a meter size and the Carrington Homes representative advised the pipe size is 5/8". Mr. Wine amended the motion to note that the well to house pipe line is 5/8" size. Mr. Snyder accepted the amendment and the voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

Mr. Snyder made a motion to amend the Codified Ordinances of the Town of Hamilton Water Ordinance Chapter 4, Article 2, Sections 2-2, 2-7 and 2-9 and Sewer Ordinance Chapter 5, Article 3, Section 19-12 to adopt the Schedule to establish Water and Sewer Availability, which was the subject of the previous meeting. Mr. Unger made a second on the motion and the voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).

WTP Landscaping Ms. Jones advertised as a public bid with April 30, 2010 as the due date. 3 bids were received by the 30<sup>th</sup>. In addition 1 bid was emailed to Mr. Rollins and 1 bid was on Ms. Jones' desk this morning. Ms. Gilmore asked if the advertisement clearly stated that the bid needed to be in the Town Office by April 30, 2010 and suggested re-advertising the bid opportunity to avoid any objections. Ms. Gilmore requested the new advertisement clearly state the end date for all bids with the address of the Town Office included.

Mr. Beniamino advised that Mr. Dimitri Kesari was recently elected to Town Council which leaves a vacant seat on the Planning Commission. In addition Mayor Whitbey noted that Mr. Simpson was elected to the Town Council which leaves a vacant position on the BZA. Mr. Unger recommended that Mr. McCann have input on the selection of new Planning Commissioners since he will be working closely with the successful nominees. Mr. Snyder made a motion to advertise for residents willing to serve on the Planning Commission, up to 5 positions. Mr. Wine made a second on the motion and the vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none). Mr. Snyder made a motion to advertise for residents willing to serve on the BZA. Mr. Campbell made a second on the motion and the vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none). Ms. Jones asked if a deadline should be included and 30 days was suggested.

Mr. Wine asked the Council if there was a problem with Ms. Tussing leaving the meeting during Executive Session, tonight and all meetings moving forward. The consensus is that there is no issue with the request.

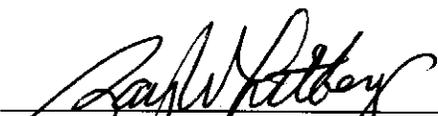
### **Executive Session**

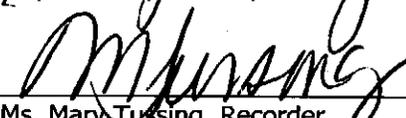
Mr. Snyder made a motion that the Hamilton Town Council authorize the settlement of the lawsuit entitled *Oak Ridge Incorporated v. Town of Hamilton, Case No: 49344, Loudoun County Circuit Court, as discussed during the closed session. Mr. Wilmoth made a second on the motion and the recorded voice vote passed 7-0, (Aye: Whitbey, Unger, Snyder, Wilmoth, Rollins, Wine, Campbell. Nay: none).*

Ms. Gilmore advised that Verizon has filed a lawsuit with the State Corporation Commission over the stated value of their property. Verizon claims the annual assessment is too high. Once the assessment is made the revenues are allocated among all the jurisdictions in the State. Verizon is asking for a reduction between 52-54% which would be a substantial in loss of tax revenue for all localities. Hamilton only has until Thursday to respond if that is the desired action of the Town. The Council stated unanimously that they wish to respond.

Mr. Rollins inquired if the previous landscaping bids needed to be resubmitted and Ms. Gilmore responded yes.

Mr. Snyder motioned to adjourn.

  
\_\_\_\_\_  
Mayor H. Ray Whitbey

  
\_\_\_\_\_  
Ms. Mary Tussing, Recorder