MINUTES
HAMILTON TOWN COUNCIL
REGULAR MEETING
OCTOBER 15, 2012

The regular meeting of the Hamilton Town Council was convened at 7:00 PM with the following attendance:

PRESENT: Greg K. Wilmoth, Mayor
Kenneth C. Wine, Vice Mayor
John Unger, Council member
Dimitri Kesari, Council member
Brent Campbell, Council member

ABSENT: Michael Snyder, Council member
David R. Simpson, Council member

STAFF: Lori Jones, Treasurer
David Beniamino, Zoning Administrator
Maureen Gilmore, Town Attorney
Jennifer Helbert, Recorder

CALL TO ORDER:

Mayor Wilmoth called the Town Council public hearing to order at 7:00 PM.

PUBLIC HEARING:

1) **ZONING ORDINANCE PROPOSED AMENDMENTS** – Consideration of the adoption of the following Zoning Ordinance Text Amendments to the Hamilton Zoning Ordinance

PUBLIC HEARING NOTICE
TOWN OF HAMILTON
TOWN COUNCIL

The Hamilton Town Council will hold a public hearing in the Town Office at 53 East Colonial Highway, Hamilton, Virginia on Monday, October 15, 2012 beginning at 7:00 PM for the purpose of considering the adoption of the following text amendments to the Hamilton Zoning Ordinance:

1. **ARTCLE 1 TITLE, APPLICATION, PURPOSE, INTERPRETATION, *Section 2, Application.*** Add the following to end of section: "Anything not specifically permitted by this ordinance is considered to be prohibited."
2. **ARTICLE 2 DISTRICTS AND DISTRICT MAPS**
   a. ***Section 2. Establishment of Districts*:** revises language to state that the Town Zoning Administrator, instead of the Mayor, will date and sign the Town Zoning Map.
   b. ***Section 3. Annual Revision of Zoning Map***: revises language to states that Zoning Administrator shall revise the zoning map to reflect zoning changes within thirty days.
   c. ***Section 4. Information copies of Zoning District Map:*** adds language that zoning map will be available on Town's website and deletes monetary charges for copies of zoning map.
   d. ***Section 6. Interpretation of District Boundaries***: adds language to subsection 5 that properties shall be considered legally non-conforming if zoning map error/omission results in properties without zoning district classification.
3. **ARTICLE 3 GENERAL PROVISIONS**
   a. ***Section 2. Street Frontage Required***: Deletes street frontage requirement for lots.
   b. ***Section 4. Accessory Buildings; Prior Construction and Use***: Substitutes "primary structures" for " main buildings"; deletes exemption for accessory farm buildings.
   c. ***Section 5. Use of Certain Facilities for Accessory Buildings or Dwellings Not Permitted and Section 6: Uses not Permitted Are Prohibited***: Prohibits certain facilities from being used as structures.
   d. ***Section 7. Construction Trailers and Temporary Structures***: Establishes standards for construction, sales, temporary portable storage and dumpster structures, such as size, parking, duration, and restroom requirement.
   e. ***Section 10. Limitations on the Keeping of Animals***: Allows keeping of pets within dwelling or in permitted accessory structures; prohibits keeping of wild animals and keeping of animals for sale or commercial purposes; Deletes chart showing number of animals per lot size.
   f. ***Section 14. Home Occupations***: Eliminates 400 sq. ft. maximum area; allows one non-family member employee; prohibits parking or storage of commercial vehicles.
4. **ARTICLE 5 NON CONFORMING USES AND STRUCTURES**
   a. ***Creates Purpose Language*:** The purpose of this section is to regulate and limit the development and continued existence of uses, structures, and lots legally established prior to the effective date of this Ordinance which do not conform to the requirements of this Ordinance. Many nonconformities may continue, but the provisions of this subsection are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity of this Ordinance and the desired character of the Town and to protect the public health and safety.

b. adds "structures" to provision; substitutes "structure" for "building" throughout the Article

c. ***Section 1. Non-conforming Use and Structures May Be Continued***: prohibits any increase to the square footage of a non-conforming structure; allows change from one non-conforming use to another non-conforming use, without expansion, permitted by special exception within the same zoning district; change must be approved by Town Council with finding that proposed use is equally appropriate; allows imposition of conditions/safeguards.

d. ***Section 5. Destruction of Non-Conforming Use***: allows repairs or reconstruction within 18 months of damage where less than 50% of structure is damaged.

e. ***Section 12. Expansion of Non-Conforming Uses, Structures***: prohibits expansion or enlargement that takes up more than 25% of land.

5. **ARTICLE 6 PARKING AND LOADING REGULATIONS**
   - *a.* ***Section 1. Off-Street Parking Requirements***: specifies the number of parking spaces required for various uses and necessary handicapped spaces
   - *b.* ***Section 1.4 Joint Use and Off-Site Facilities***: allows parking for several uses in single parking area; requires evidence of recorded agreement for use of off-site parking spaces to satisfy required parking.
   - *c.* ***Section 1.5 Design Standards***: Surfacing: allows Zoning Administrator to approve alternative surface materials; requires design to protect against stormwater runoff, potholes, erosion and dust; allows credit for utilization of best management practices.
   - *d.* ***Section 1.6 Fee in Lieu of Required Parking***: allows a waiver of required spaces for one-time payment into transportation fund; waiver runs with the land
   - *e.* ***Section 1.7 Parking Exception***: identifies exemptions to parking requirements.
6. **Article 7 SIGN REGULATIONS**
   - *a.* ***Section 1.5 Definitions***: adds definitions for externally and internally illuminated signs, non-conforming signs
   - *b.* ***Section 1.6 Prohibited Signs***: repeals prohibition of changeable copy and portable signs; refines definition of signs that obstruct and vehicular signs.
   - *c.* ***Section 1.7 Exempt Signs***: reduces permitted size of bulletin boards from 24 sq ft to 12 sq ft; prohibits lighting and excess of 4 sq ft for directional signs; allows 6 sq ft or less changeable copy and portable signs outside public right of way.
   - *d.* ***Section 1.8 Temporary Signs***: clarifies size, duration and location requirements for special event sales signs and construction signs.
   - *e.* ***Section 1.11 Signs Permitted by Zoning District***: in all districts, requires zoning approval for wall mounted signs closer than 5 ft from property line; allows 1 non-illuminated home occupation sign no larger than 4 square ft; in commercial/industrial districts, enumerates illumination requirements; adds provisions for signs on commercial/industrial parcels adjacent to residential lots; requires zoning administrator to act on sign applications within thirty days after complete application submission.
7. **ARTICLE 8 SUPPLEMENTARY REGULATIONS**

a. ***Section 1.1 Supplementary Bulk, Area and Height Requirements***: deletes exemption for dormitories, fraternities, sororities, hotel/motel/lodging rental units.
b. ***Section 1.2 Yards and Open Space Generally***: substitutes "setback" for "yard" throughout Article; substitutes "primary structure" for "main building" throughout Article; prohibits primary structures outside the required setbacks; substitutes "easement or right of way" for "official line" in determining setbacks.
c. ***Section 1.6 Accessory Buildings and Structures***: substitutes "merchandise for sale which is displayed outdoors" for "Outdoor displays" and permits only in commercial districts
d. ***Section 11.7 Major Recreational Equipment, Parking and Storage***: prohibits the display of recreational vehicles for sale; states that the Loudoun County Sheriff's Department shall enforce violations of this section.
e. ***Section 1.8 Commercial Vehicle Parking***: prohibits commercial vehicle parking in any residential district
f. ***Section 11 Satellite Dishes***: removes subdued color requirement for satellite dishes; requires zoning approval for screening on flat-roofed buildings; removes satellite dish installation as a special exception use.
g. ***Section 2 Temporary Uses***: removes wayside stands, Christmas tree sales and other temporary uses as permitted uses in residential districts and wayside stands in non-residential districts
h. ***Section 2.4 Yard Sales***: removes wayside stands and applicable requirements from the section.
i. ***Section 3. A Site Grading Plan Shall be Submitted for Any of the Following***: requires a site grading plan whenever an area of 5,000 square feet or greater is disturbed.
j. ***Section 4. Special Regulations for Residential Day Care of Home Child Care, Nursery Schools, Kindergartens, Child Care Centers, Day Nurseries or Day Care Center, Private Schools, Technical or Business Schools, Colleges or Universities***: eliminates requirement for direct access to an existing public street and substitutes requirement for a Traffic Impact Analysis to ensure existence of transportation infrastructure
k. ***Section 5.8 Earth borne Vibration Standards***: deletes section.

8. **ARTICLE 9 LANDSCAPING, SCREENING AND OPEN SPACE REGULATIONS**
   a. ***Section 1.2 Applicability***: clarifies that site the Article applies to all site plans, subdivision applications and all zoning permit applications within the Town corporate limits; substitutes "site plans" for "site development plans" throughout the Article
   b. ***Section 1.5 Contents of Landscape Plan***: adds certified engineer and land surveyor to list of professionals qualified to prepare plans
   c. ***Section 2 Street Tree Planting***: clarifies that plantings must meet minimum requirements of Article
   d. ***Section 3 Parking Lot Landscaping***: removes even interval planting but clarifies compliance with minimum requirements of Article

e. ***Section 4 Screening and Buffer Yard Requirements***: allows zoning administrator review/approval of alternative screening methods for greater than 50% FAR enlargement of existing structures
f. ***Section 4.5 Buffer-Yards***: removes requirement for proposed development to provide required buffer, or receive credit for existing buffer
g. ***Section 5.6 Monitoring and Enforcement***: eliminates criminal misdemeanor as penalty for violation
h. ***Section 7 Fences***: sets forth definitions for permitted fence types; prohibits electrified and radio-controlled fences; permits solid fences within corner-side yards so long as visibility is unobstructed; removes requirement that screening fences match predominant material of structures; includes above ground swimming pools in definition

9. **ARTICLE 10 SPECIAL USE PERMITS AND PLANNING COMMISSION PERMITS**
   a. ***Section 1 Purpose of Special Use Permit and Planning Commission Permit Procedures***: clarifies that the Planning Commission reviews and approves Commission Permits; substitutes "Planning Commission Permit" for "Commission Permit"
   b. ***Section 2 General Standards and Guidelines***: adds language that the Town Council may impose reasonable conditions that mitigate the impacts of a proposed special use; clarifies that the Town Council may overturn the decision of the Planning Commission regarding a commission permit application
   c. ***Section 3 Procedures, Site Plan Required***: clarifies that the Planning Commission makes a recommendation to the Town Council regarding a special use permit application; removes automatic approval of a special use permit if the Planning Commission fails to act within 90 days; eliminates appeal of Planning Commission decision
   d. ***Section 6 Lapse of Special Use or Commission Permit***: provides that a special use permit or commission permit remains valid for two years, instead of one year
10. **ARTICLE 11 BOARD OF ZONING APPEALS**
   a. ***Section 1 Composition***: clarifies that the Town Council recommends Board of Zoning Appeal appointees to the Loudoun County Circuit Court which approves appointment
   b. ***Section 5 Variances***: substitutes "undue hardship" for "unnecessary hardship" for variances considered by the Board of Zoning Appeals
   c. ***Section 6 Zoning Administrator; authority to grant administrative variances***: allows zoning administrator to grant administrative variances from building setback requirements with required notices and procedures
11. **ARTICLD 12 CHANGES AND AMENDMENTS**
   a. ***Section 2 Report of Planning Commission***: removes requirement of Town Council majority vote to grant extension to Planning Commission review period.
   b. ***Section 6.2 Proffers in Writing***: substitutes "proffer conditions in writing" for "proffer in writing such reasonable conditions"
12. **ARTICLE 13 ADMINISTRATION AND ENFORCEMENT**

a. ***Section 5 Procedures for Approval of Site Plans for Special Use Permits Which Require Approval by the Town Council***: clarifies that preliminary and final site plans must comply with the applicable provisions of the Hamilton Subdivision and Site Plan Ordinance

13. **ARTICLE 14 FLOODPLAIN AND AGRICULTURAL-FORESTAL DISTRICTS**
    a. ***Generally*** clarifies that the Town Council, not the Board of Zoning Appeals, grants special use permits in these districts.
    b. ***Section 13 Uses Permitted with a Special Use Permit***: clarifies that the Town Council is the body that reviews and approves special use permits
    c. ***Section 14 Factors to be Considered When Granting a Special Use Permit***: clarifies that the Planning Commission and Town Council must consider/satisfy all relevant factors and procedures in reviewing a special use permit in a floodplain of Ag/Forestal District
14. **ARTICLE 16 SCENIC CREEK BUFFER**-repeals this Article
15. **ARTICLE 16 DEFINITIONS**-revises definitions for Accessory Structures, Alleys, applicant-owner, automobile salvage or wrecking yard, Berm, Board, Building, Business and Professional Office, Child Care Center, Church, Clinic, Commercial Use, Comprehensive Plan, Deck, Developer, Driveway or Access way, Dwelling-Manufactured Home, Easement, Engineer, Evergreen, Fence, Floor Area, Garage-Private, Garage-Repair, Impervious Surface, Junk Yard or Automobile Graveyard, Library, Noise, One Hundred-Year Flood, Outdoor Storage, Property, Restaurant, Retail Stores and Shops, Right of Way, Satellite Dish Antenna, School, Setback, Site Development Plan, and Use.

These amendments are authorized by Code of Virginia of 1950, as amended, §§ 15.2-2279 through 2286; -2289, -2290, -2292.1, -2296 through -2302 and -2308 through -2312

Additional information regarding these proposed zoning ordinance amendments is available for review at the Town Office, 53 East Colonial Highway, Hamilton, Virginia from 8:00 AM to 4:30 PM Monday-Friday, holidays excepted.

If you require any type of reasonable accommodation, as a result of a physical, sensory or mental disability, to participate in this meeting, contact Lori Jones, Town Treasurer at 540-338-2811. Please provide three days' notice.

There being no public comment the public hearing was closed.

Council member Kesari made a motion to send this item to the Public Safety Committee for review and recommendation.

Motion: Council member Kesari
Second: Council member Campbell
Carried: 3-2-2 with Snyder and Simpson absent

Wilmoth -	Nay
Wine -	Aye
Unger -	Nay
Kesari -	Aye
Campbell -	Aye

Town Council set the next Public Safety Meeting to review the Zoning Ordinance for Monday, October 29th at 6:00 PM at the Hamilton Town Hall.

CALL TO ORDER:

Mayor Wilmoth called the regular meeting to order at 7:15PM.

GUESTS:

Bleigh Tantlinger came forward to speak. Vice Mayor Wine stated that Ms. Tantlinger has offered to help the Town of Hamilton with trying to acquire some grants for the Town. Ms. Tantlinger went over her qualifications and asked if the Council would like her to put together a proposal. Council indicated that they would like Ms. Tantlinger to submit a proposal that they could review.

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Council member Kesari made a motion to approve the Town Council meeting minutes of September 10, 2012 as amended.

Motion: Council member Kesari
Second: Vice Mayor Wine
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth -	Aye
Wine -	Aye
Unger -	Aye
Kesari -	Aye
Campbell -	Aye

MAYOR'S REPORT:

Outstanding Items List – Mayor Wilmoth shared this list with the Council.

Eagle Scout Projects – Town Signs and Path to Park – Mayor Wilmoth stated that the signs are being fabricated now by Norton's. They should be done within the week and hope to have the signs up before the weather gets cold. The locations for the signs have already been chosen.

Mayor Wilmoth stated that the Path to the Park project was completed this past weekend.

WATER AND SEWER COMMITTEE:

Well 14 Generator – Mayor Wilmoth stated that they have the part to fix the generator and were here last Thursday but did not have equipment heavy enough to lift it so they are supposed to be back this week to complete the work.

East End Water Loop – Mayor Wilmoth stated that he contacted Mr. Rigby and he is supposed to meet with the Mayor this week to do a walk through before the Town goes through the expense of getting the easements.

Committee Meeting of October 9, 2012 – Mayor Wilmoth stated that the Water and Sewer Committee met on the 9th of October. The Committee discussed the new Water and Sewer Ordinance and requested that the information be forwarded to the Council for review. Ms. Jones indicated that she would forward the changes to the Council once they have been made. Mayor Wilmoth stated that the Committee also discussed the Grinder Pump Service Contracts. He indicated that the Committee believes that the Town should pay for the service contracts for the pumps inside the Town limits but the ones that are outside of the Town limits should be paid for by the homeowners. The other item that was discussed was the location of water meters and not having them in a right of way or easement. Mayor Wilmoth stated that he was directed to do a survey and find out how many meters are in the right of way or an easement and have the Town work on moving those meters.

Camera N. Reid Street Sewer Main – Mayor Wilmoth stated that Purcellville has stated that they would help with this issue within the next month but they have had some issues of their own that they are dealing with. He indicated that there is no back up situation but he just wants to see what is in that main.

SCADA Update – Mayor Wilmoth stated that the hardware is all in on the sites and they are working on the software programs and should have it operational by the end of the month.

PARKS AND RECREATION COMMITTEE:

Mayor Wilmoth thanked Lori Jones for working on the entrance to the Park and cleaning it up.

TREASURER'S REPORT:

Monthly Treasurer's Report – Ms. Jones issued a report to the Council and answered any questions that they had about the report.

Council member Unger made a motion to accept the Treasurer's Report as submitted.

Motion: Council member Unger
Second: Council member Kesari
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth -	Aye
Wine -	Aye
Unger -	Aye
Kesari -	Aye
Campbell -	Aye

FINANCE COMMITTEE:

None Scheduled

PUBLIC SAFETY & ZONING ENFORCEMENT COMMITTEE:

Mr. Beniamino stated that he was working on a neighbor dispute.

PERSONNEL COMMITTEE:

None Scheduled

PLANNING COMMISSION:

Chairman McCann stated that the Planning Commission's next ZORC meeting is scheduled for October 17, 2012 at 7:00 PM.

OLD BUSINESS:

Planning Commission Vacancy

Council member Kesari made a motion to appoint Laura Hunt to fill an unexpired term from July 1, 2012 to July 1, 2014 on the Planning Commission.

Motion: Council member Kesari
Second: Council member Unger
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth -	Aye
Wine -	Aye
Unger -	Aye
Kesari -	Aye
Campbell -	Aye

BZA Term Expiration

Council member Unger made a motion to send Bob McCann's name to the court to fill a term on the Board of Zoning Appeals beginning on November 19, 2012.

Motion: Council member Unger
Second: Council member Kesari
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth -	Aye
Wine -	Aye
Unger -	Aye
Kesari -	Aye
Campbell -	Aye

VA WARN Resolution

The Council decided not to move forward with this resolution.

Funding of Solar Radar Speed Signs – Loudoun County FY2014 Budget Request

Mayor Wilmoth stated that a letter was sent to the County of Loudoun to request funding for Solar Radar Speed Signs.

Zoning Ordinance Amendments

Council provided a few changes to Mr. Beniamino.

NEW BUSINESS:

Halloween Hours – Wednesday, October 31, 2012 5:00PM until 9:00PM

Vice Mayor Wine made a motion that the Council set the trick or treating hours for 5PM until 9PM on October 31, 2012.

Motion: Vice Mayor Wine
Second: Council member Kesari
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth -	Aye
Wine -	Aye
Unger -	Aye
Kesari -	Aye
Campbell -	Aye

Hamilton Day 2013 Date

Council decided that they would choose a date at their meeting in November.

Application for Utility Connection – 120 South Hughes Street

Council member Unger made a motion to approve the application for sewer connection to the Town's system at 120 South Hughes Street.

Motion: Council member Unger
Second: Council member Kesari
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth -	Aye
Wine -	Aye
Unger -	Aye
Kesari -	Aye
Campbell -	Aye

Reston Bike Club Donation of $1,800

Mayor Wilmoth wanted to bring to the Council's attention the donation received by the Reston Bike Club.

Possible Advertising Contract Effective January 1, 2013

Ms. Jones indicated that the advertising contract that the Town is riding with the County ends on January 1, 2013 and the Town is looking at going out to bid or riding a contract with another jurisdiction. Ms. Jones stated that she would get a few more bids and bring those before the Council in November.

CLOSED SESSION: Vice Mayor Wine made a motion that the Hamilton Town Council recess It's open meeting and convene a closed session. To discuss the following:

1) Consultation with Legal Counsel pertaining to the discussion of actual litigation and matters requiring the advice of legal counsel regarding Well 14 special

exception and threatened litigation regarding payment of availability fees as authorized by Code of Virginia Section 2.2-3711(A)(7) as amended.

Motion: Vice Mayor Wine
Second: Council member Unger
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth - Aye
Wine - Aye
Unger - Aye
Kesari - Aye
Campbell - Aye

Vice Mayor Wine made a motion that the Hamilton Town Council adjourn the closed session and reconvene the open meeting.

Motion: Vice Mayor Wine
Second: Council member Kesari
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth - Aye
Wine - Aye
Unger - Aye
Kesari - Aye
Campbell - Aye

Vice Mayor Wine made a motion that the Hamilton Town Council certify that while in closed session, to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) 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.

Motion: Vice Mayor Wine
Second: Council member Kesari
Carried: 5-0-2 with Snyder and Simpson absent

Wilmoth - Aye
Wine - Aye

Unger -	Aye
Kesari -	Aye
Campbell -	Aye

ADJOURNMENT:

There being no further business the meeting adjourned at 9:00 PM.

Greg Wilmoth, Mayor

Jennifer L. Helbert, Recorder