

# TOWN COUNCIL MEETING MINUTES

June 19, 2012

## Call to Order

The Clarksville Town Council met in regular session on June 19, 2012, at 7:30 p.m. Mayor Kevin Allgood called the meeting to order and Vice-Mayor Connie Torres provided the invocation. Council members present were Mayor Kevin Allgood, Chris Clarke, Carolyn Hite, Bill Nunn, Connie Torres, and Harold Yuille. Council member Jurczyk was absent. Staff members present were Interim Town Manager Charles Lee, Treasurer/Clerk Tara Murphy, Town Clerk Wendy Feild, Town Operations Director Richard Elliott, and Police Chief Ricky Wilkinson.

## Approval of Minutes

The minutes of the May 15<sup>th</sup>, 2012 meeting were approved with no additions, deletions, or corrections with a motion by Council member Clarke, seconded by Council member Yuille, and approved by all.

The minutes of the June 5<sup>th</sup>, 2012 Council Workshop were approved with no additions, deletions, or corrections with a motion by Council member Hite, seconded by Council member Nunn, and approved by all.

The minutes of the June 5<sup>th</sup>, 2012 Special Council meeting were approved with no additions, deletions, or corrections with a motion by Vice-Mayor Torres, seconded by Council member Clarke, and approved by all.

## Presentation of List of Vendors Paid

The list of vendors paid for May 2012 was presented to Council. Vice-Mayor Torres motioned to approve the list of vendors paid for May 2012, seconded by Council member Clarke, and approved by all.

## Presentation of Financial Statements

The Financial Statements for May 2012 were presented to Council. Council member Clarke motioned to approve the May 2012 financial statements, seconded by Vice-Mayor Torres, and approved by all.

## Presentation of Town Operation Reports

The Town Operations reports were presented to Council.

Director Richard Elliott reported to Council that there was a water line break on 4<sup>th</sup> Street, and they just made the repair before the meeting. He reminded everyone that they would be conducting the annual hydrant flushing. Director Elliott stated, the water may be dirty, and it just needs to be run a little to clear it up. He stated, if a citizen's water continues to be dirty, to please contact the Town Hall, and they will check the lines in the area.

## Presentation of Police Activity Report

The Police Activity report was presented to Council.

Chief Ricky Wilkinson asked if Council had any questions since he was not present at the May meeting. There were no questions.

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## UNFINISHED BUSINESS

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### Second Reading of Proposed 2012-2013 Budget

Mayor Allgood stated that this is the second reading and public hearing for the proposed 2012-2013 Budget. Treasurer Murphy presented an overview of the proposed 2012-2013 Budget. Treasurer Murphy stated that with this proposed budget, the contingency funds levels were maintained and there were not any tax increases. Treasurer Murphy stated that the total proposed revenues for the General Fund are \$1,446,053. She stated that the only proposed increase is a 20% rate increase in garbage fees for both residential and commercial customers to pay the debt retirement for the garbage truck. She stated that the minimum garbage for residential customers will increase to \$18 every two months and the minimum commercial garbage will increase to \$40.70 every two months. She stated that any other increases in the line items are based on receipts during the year. Treasurer Murphy stated that the total proposed expenditures for the General fund are \$1,409,641. She stated that it is proposed to purchase a new police car this year, and the debt service items reflect an increase for the police car and the garbage truck. She stated that some other critical items are the minimum 1% mandated pass-through funds for the employee retirement contribution, an increase in the Town's share of the operating costs for the Drug/Gang Task Force to move into another facility, a 10% allowance for all fuel costs including the Rescue Squad, and a 2% compensation increase for the employees. Treasurer Murphy stated that they also reallocated funds for the labor force to better reflect the actual effort. Treasurer Murphy stated that the General Fund proposed contingency is \$36,412.

Treasurer Murphy stated that the proposed Water and Sewer Fund revenues are \$1,089,500. She stated that there are no proposed water and sewer rate increases this year. She stated that with the reallocation of the funds for the labor force and reductions in other line items, the transfer line item is lower and thus reduces the Water Funds dependence on the General Fund. She stated that some critical items were budgeted for this year. She stated that there is an increase that the water sampling process at the Wastewater Treatment Plant until the Town's lab can be certified, which is State mandated. She stated that a new gray water automatic sampler needs to be purchased at the Wastewater Treatment Plant. Treasurer Murphy stated that the 10% allowance for all fuel costs is reflected in the line items as well as the 1% mandated pass-through VRS employee contribution and the 2% employee compensation increase. Treasurer Murphy stated that the Water Fund debt service line items increased to include the waterline replacement project funded by the VA Dept. of Health and the \$75,000 match for the sewer needed for the Kinderton Technology Park. Treasurer Murphy stated that the total proposed expenditures for the Water Fund are \$1,055,779 with a proposed contingency of \$38,721.

Mayor Allgood opened the public hearing on the second reading of the proposed 2012-2013 Budget and asked for any public comment. There was no public comment. Mayor Allgood closed the public hearing.

Council member Nunn thanked the Budget Committee for a well proposed budget and doing a good job. Mayor Allgood asked if there a motion on the proposed 2012-2013 Budget. Council member Hite motioned to adopt the proposed 2012-2013 Budget, seconded by Vice-Mayor Torres, and approved by all.

### Resolution Authorizing Financing of Trash Truck

Treasurer Murphy presented Council a resolution from TCF Equipment Finance, Inc. She stated that the finance company for the garbage truck requires Council to approve the resolution authorizing the Interim Town Manager to sign the financing documents.

Council member Hite motioned to approve the resolution authorizing Interim Town Manager Charles Lee to sign the garbage truck financing documents from TCF Equipment Finance, Inc., seconded by Council member Clarke, and approved by all.

## Disposition of Noise Ordinance

Mayor Allgood stated that a proposed noise ordinance was presented for Council's review. He stated that Nichol Cooper has asked to address Council regarding the proposed noise ordinance. Ms. Nichol Cooper stated that she lives at 204 8<sup>th</sup> Street and has a business at 801 Virginia Avenue. She read about the noise ordinance in the paper and is unsure how it will affect her business. Ms. Cooper stated that she feels the noise ordinance as it is proposed is unnecessary and will have an adverse impact on her business establishment. She stated that they began to have the Live Music Under the Stars and end the acoustic music by 11 p.m., which was a time discussed with the previous Town Manager since they were in Town. Ms. Cooper is concerned with the 50' parameter used to judge the noise. She stated that they also host many outside wedding packages that use acoustic music as well as DJs, and they bring many nonresidents to the Town that spend lots of money in the restaurants, florists, salons, hotels, and also at the marina. Ms. Cooper stated that over the years, there have only been three incidents of complaints which were from her neighbors. She stated that since then, she has discussed the issues with the neighbors of the upcoming events and there have been no further problems. She stated that many of the surrounding neighbors sit out in their yards and listen to the music. She stated that over the 8 years in business, they have never had to call the police for an unruly guest or any problems. She stated that they have never had any ABC violations or any issue that would cause extra concern with their business. Ms. Cooper asked how the proposed ordinance will affect her business. She asked the Council to please consider the wording of the ordinance and not pass it as it could affect her family's livelihood as well as the overall economic impact on the Town. She stated that she feels her business is a huge asset to the Town that pays many Town taxes, fees, meals and lodging taxes. She stated many of the couples come back to Town to celebrate anniversaries, and they have established a local following of Town residents that come to enjoy the music on Fridays.

Vice-Mayor Torres informed Ms. Cooper that the reason for establishing the noise ordinance was to have something in the Code that was enforceable as the previous noise ordinance was ruled unconstitutional. Ms. Torres stated that the Town has to have an ordinance to address the problems that do exist. She stated that the ordinance was never intended to have an impact on a business like hers. She stated that the Town Council does not want to impair her business in any way or any other business in Town.

Vice-Mayor Torres motioned for the Council to table the noise ordinance at this time and do some further study and discussions about it, seconded by Council member Clarke, and approved by all. Council member Nunn thanked Ms. Cooper for coming forward and sharing her interest to make the Council more informed.

## Boundary Line Adjustment - Current Status & Likely Future Actions – James Cornwell and Andrew McRoberts, Sands and Anderson, PC

Interim Town Manager Charles Lee introduced Jim Cornwell and Andrew McRoberts from Sands Anderson, PC to communicate to the Council and the public the current status of the boundary line adjustment and the likely future actions that may happen.

Mr. Jim Cornwell stated that he has been a local government attorney for 38 years and is currently the attorney for 7 jurisdictions and Andrew McRoberts has been a local government attorney for 22 years and works for 2 jurisdictions. He stated that the Town has been working to resolve annexation issues with Mecklenburg County for years and have had no discussions. He stated that in February the Council adopted a resolution authorizing the filing of a petition with the Commission on Local Government for annexing portions of Mecklenburg County. He stated that Sands Anderson filed the notice on the Town's behalf on March 9<sup>th</sup>. He stated that Sands Andersons supplemented the initial filing on May 15<sup>th</sup>. Mr. Cornwell stated as it stands now, this is still considered a contested annexation, which is the first contested annexation that has been before the COLG since 2002. He stated that the Town requested in the initial filing that the two parties mediate and both parties agreed. He stated a mediator has been appointed and agreed to and on July 9<sup>th</sup>, the mediator will meet with the Town to discuss the issues and concerns of the annexation and how it will be conducted. Mr. Cornwell stated that the mediation is scheduled to begin on July 12<sup>th</sup>. He stated that if the mediation is not successful, he stated that the Town has hearings in front of the COLG scheduled for September 25<sup>th</sup>, 26<sup>th</sup>, and 27<sup>th</sup> here in Clarksville. He stated that the COLG will even take a tour of the Town and the proposed annexation areas to see what the circumstances are.

He stated that the report from the COLG is tentatively scheduled to be issued on November 8<sup>th</sup>, 2012. Mr. Cornwell stated that the duty of the COLG is to make investigations, analyze the local need, and produce findings and recommendations. He stated that no court actions can be taken until the COLG files their report. Mr. Cornwell stated that once the COLG submits its report, the Town of Clarksville has 180 days to adopt an ordinance to proceed with the annexation. He stated if no ordinance is adopted, the annexation is over, but if the ordinance is adopted, the issue goes before a three judge panel appointed by the court to hear the annexation. He stated that they will come to Clarksville and take evidence and hear the matter as in any other court case. Mr. Cornwell stated that they will consider the report from the COLG and may or may not use it to make a decision. He stated that the court can reduce or expand the area to be annexed and can even set conditions or steps contingent on improvements. He stated that they will set the conditions of the annexation and once they make a ruling, it is subject to appeal to the Supreme Court just like any other case. He stated that the factors the court considers is the expediency and necessity for annexation, the best interest of the citizens of the Town, the County, the person's in the proposed annexation area and the Commonwealth as a whole. He stated that if the annexation is approved, it will be come effective on January 1<sup>st</sup> of the following year. He stated that also if the annexation is approved for Clarksville, the Town can request reimbursement of the reasonable costs associated with making the case such as attorney's fees. He stated that Mecklenburg County has until July 18<sup>th</sup> to file their response to the Town's filing. He stated that during that time, we will be engaged with the mediator. Mr. Cornwell stated that if the issues can be resolved and it is only a boundary adjustment, both jurisdictions would adopt an ordinance to take to the judge to sign.

Mayor Allgood thanked Mr. Cornwell and Mr. McRoberts for coming before the Council to address the status of the process and what to expect in the future.

## Correction to Town's February 21, 2012 Resolution Regarding the Institution of Annexation Proceedings Against Mecklenburg County, Virginia

Interim Town Manager Charles Lee stated that an error in the map for Area E of the proposed annexation was discovered after the filing with the COLG in which a section of 14 acres is already in Town and should not be included as part of the annexation area. He stated that on the advice of Counsel, the Town Council needs to adopt a resolution to correct the error made in the original resolution and the filing and corrected copies of all documents regarding the error will be sent to the COLG, Mecklenburg County, the mediator and any and all involved parties.

Vice-Mayor Torres motioned that Council approve the correction to the clerical error in the delineation of the proposed annexation area E as explained by the Interim Town Manager Charles Lee, seconded by Council member Hite, and approved by all.

## Discussion of Proposed Personnel Policy & Personnel Evaluation System

Vice-Mayor Torres stated that the draft Personnel Policy and Personnel Evaluation System was presented at the Council Workshop for review, comments, questions and indications of support. She stated that the Personnel Committee asked the Council to consider the portion of the policy that deals with the establishment of job classifications, job descriptions, salary ranges, and an evaluation system. She stated that the Personnel Committee asks for the Council's support in the four step evaluation system because of the amount of work involved with establishing this type of system. She stated that the Committee would like to know if the Council wants to proceed with the idea of this type of system or continue in the same manner before the man hours are spent to develop the system.

Council member Clarke motioned to support the Personnel Committee's efforts to develop the four step evaluation system for the Town of Clarksville, seconded by Council member Hite, and approved by all.

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## NEW BUSINESS

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### Recognition of Council member Harold Yuille

Mayor Allgood addressed the Council and the public to recognize Council member Harold Yuille for his 35 years of service on the Town Council and presented him with a gift and certificate of recognition from the Town. He stated that Mr. Yuille has served the Town Council diligently and will be deeply missed. Mr. Robert Buchanan also addressed the Council regarding Mr. Yuille's service to the Town. Mr. Buchanan stated that he was Mayor when Mr. Harold Yuille was appointed on December 13, 1977 to fill the unexpired term of Mr. Harris who passed away. He stated that Mr. Hobson Keene motioned for Mr. Harold Yuille to fill the unexpired term and Mr. Jerry Hite seconded the motion and it was approved. He stated that Mr. Yuille was sworn in that day and they proceeded with the meeting. Mr. Buchanan stated that Mr. Yuille has continued to serve the Town in an outstanding manner since that time. He thanked Mr. Yuille for his service to the Town on behalf of the citizens of Clarksville.

### Budget Amendment – Legal Fees/Professional Fees

Treasurer Murphy stated that the Town received an invoice for professional services rendered for annexation from Dewberry and Davis for \$3,500.00 and also an invoice from Sands Anderson for legal services for \$13,331.09. She stated that if it pleases Council, we recommend appropriating \$16,831.09 from the Special Savings CD to pay for the invoices for the annexation services.

Council member Nunn motioned to appropriate \$16,831.09 from the Special Savings CD to pay the invoice for the annexation services, seconded by Vice-Mayor Torres, and approved by all.

### Budget Amendment - Highway Safety Grant

Treasurer Murphy stated that the Town has received \$12,849.84 of the Highway Safety Grant and has utilized this for Selective enforcement, \$995.12 for Traffic cones with lights and 2 reflective road check signs, and \$550 for the Highway Safety conference. She stated that if it pleases Council, we need to appropriate the grant funds into the current budget to reflect the revenues and the offsetting expenses.

Vice-Mayor Torres motioned to appropriate \$12,849.84 in Highway Safety Grant funds and the offsetting expenditures into the current budget, seconded by Council member Clarke, and approved by all.

### Budget Amendment – Police Asset Forfeiture Fund

Treasurer Murphy stated that the Drug Task Force and Police Department have purchased 2 DVRs and an in-car camera at a total of \$947 over the \$601 in seized funds that were received from the Department of Criminal Justice Services. She stated that if it pleases Council, the Town needs to appropriate \$947 from the PAF Fund balance to account for these expenses.

Vice-Mayor Torres motioned to appropriate \$947 from the Police Asset Forfeiture fund to pay for the equipment expenses for the Drug Task Force and the Police Department, seconded by Council member Hite, and approved by all.

## Budget Amendment – Electoral Board – Town Election

Treasurer Murphy stated that the Town received an invoice from the Mecklenburg County Electoral Board for the Town election in May in the amount of \$1,683.38. She stated that there are no funds budgeted for this expense. She stated that if it pleases Council, I recommend appropriating the funds from General Fund contingency to pay this expense.

Council member Hite motioned to appropriate \$1,683.38 from General Fund contingency to pay for the Electoral Board expenses for the Town election in May, seconded by Vice-Mayor Torres, and approved by all.

## Resolution for Refunding (refinancing) VRA Series Loan

Treasurer Murphy stated that Council was presented a copy of the enclosed resolution at the Workshop. She stated that the Town of Clarksville can refinance the 2015-2032 maturities of the 2004A Series Bond and realize an \$8,400 potential annual debt service savings. Treasurer Murphy stated that the Resolution would need to be adopted this month as VRA needs the document by July 1<sup>st</sup>.

Council member Hite motioned to adopt the Resolution authorizing the refunding (refinancing) of the 2015-2032 maturities of the 2004A Series Bond, seconded by Council member Nunn, and approved by all.

## VRS Resolution – Employer Retirement Contribution Rate Election

Treasurer Murphy stated that Council was presented a copy of the enclosed resolution at the Workshop. She stated that the Town Council has to elect which employer retirement contribution rate to use for the 2012-2014 biennium by July 1, 2012. She stated that the rate certified by the VRS Board of Trustees is 7.8%, which would fully fund the defined benefit retirement plan. She stated that the alternate rate of 5.46% is the higher of the current rate certified by the VRS Board for 2011-2012 or 70% of the VRS Board certified rate for 2012-2014. Treasurer Murphy stated that in the past when Council has made decisions regard funding the retirement benefit, they chose to fully fund and the 7.8% is the rate used to calculate the retirement expense in the proposed 2012-2013 budget.

Vice-Mayor Torres motioned to adopt the resolution and designate the 7.8% rate certified by the VRS Board of Trustees for the 2012-2014 biennium, seconded by Council member Clarke, and approved by all.

## VRS Resolution – Member Contribution Election

Treasurer Murphy stated that Council was presented a copy of the enclosed resolution at the Workshop. She stated that the Town of Clarksville can no longer pay the 5% employee contribution rate for the retirement benefit. She stated that the General Assembly mandated that the current employees pay the 5% contribution rate through payroll deduction and the employer is required to give the employees an offsetting pay increase. Treasurer Murphy stated the Town can elect to phase in the member contribution at 1% per year until 2016 or to implement the total 5% by July 1, 2012. She stated that the budget is figured to phase in the member paying the contribution rate at 1% per year with the offsetting pay increase. She stated that the resolution has to be adopted by July 1, 2012.

Vice-Mayor Torres motioned to adopt the resolution designating the 1% phase rate for the employee contribution paid through a payroll deduction, seconded by Council member Hite, and approved by all.

## Proposed Position Description for Town Manager and Recruiting Ad

Mayor Allgood asked if there were any questions from Council on the proposed Town Manager job description and the advertisement. There were no questions from Council. Council member Clarke motioned to authorize the Personnel Committee to move forward with the proposed Town Manager position description and advertise to fill the position, seconded by Council member Hite, and approved by all.

## An Ordinance Adopting Title 46.2 and Article Two 18.2-266-18.2-273, Code of Virginia as amended

Treasurer Murphy stated that the Council is required to adopt the State Code Traffic Ordinances every year in order for the officers to have the authority to enforce them.

Council member Hite motioned to adopt the amended State Code Traffic ordinances in order for the officers to have the authority to enforce the ordinances, seconded by Vice-Mayor Torres, and approved by all.

### Consideration of USDA Grant/Loan for Sewer Line Improvements

Interim Town Manager Charles Lee stated that the Town received notice that some federal funds are available to fund a study that was done in 2010 to correct some deficiencies in the sewer collection system and Scott Ehrhardt from Dewberry & Davis went over the concept with the Council at the Workshop. He stated that this project will not have anything regarding the Kinderton Project as that section has been taken out. Interim Town Manager Lee presented Council with a slide on the projector indicating that the 1995 International Dump Truck repairs were completed at a cost of \$4,000 thanks to Council member Nunn and Director Elliott. He stated that the truck has been in use for 17 years and used to haul sewage sludge to the landfill and the truck bed has been replaced and the rear end has been rebuilt and the truck painted. Interim Town Manager Charles Lee explained the scope of the project changed to make some upgrades to the Waste Plant, to extend sewer lines into the Oakview Drive area and also up Hwy 15 North to the mobile home park, which currently do not have access to sewage. He stated that these items are in addition to replacing pipe and sewer force mains and addressing the infiltration problems and to prepare for the future. He stated that the proposed cost for construction and engineering is \$2.4 million. He stated that this project is proposed to be funded at 25% grant and 75% loan at a 2% rate and this will cause an increase in the bi-monthly sewage fees from \$57.50 to \$82.66 and this rate increase can be phased in over a 2-3 year period. Interim Town Manager Lee stated in the future no grants will be available in the future to address sewer problems without increasing the rate. He stated the advantages to this project is it addresses some of the major deficiencies in the sewage system that have led to violations, and also extends services into areas in the Town that currently do not have the service. He stated if Council approves going forward with the application, the potential would be to get the project into the 2012 allocations or at least at the head of the 2013 allocations.

Mayor Allgood stated that the Town Council knows there are a number of problems within the sewer system and the budget would have been hit hard in the past to make the corrections. He stated that he feels the project is a good step to address the problems with the low rate proposed.

Vice-Mayor Torres feels this project is a good offer to come around with this grant and financing structure in the current economic climate. She motioned to direct Dewberry & Davis to proceed with the application process and communicate to USDA that Clarksville is interested in the project, seconded by Council member Nunn, and approved by all.

### Opportunity for Public Comment

Virginia Bowers Fenty of 7<sup>th</sup> Street stated that she and her neighbors are still very concerned with the debris and underbrush between 7<sup>th</sup> and Commerce Streets. She stated that they are all near the water but cannot see it due to the growth. She questioned who is supposed to maintain the property. Interim Town Manager Charles Lee stated that he sent a letter to the Corps of Engineers that was signed by Council member Jurczyk regarding the issue. Mayor Allgood stated that they would have to wait to receive some comment from the Corps of Engineers.

Wayne Hogan of Willow Drive feels the Noise Ordinance is necessary and that Council should go forward with the ordinance to some extent. He stated that he lives in the rural area of the Town and has had problems and called the Police Department, but the officers do not have anything to work with to address the problems. He stated that the officers need something to be able to do their jobs. He does not feel the proposed ordinance is unbearable on anyone. Council member Nunn questioned what types of problems he has.

Mr. Hogan stated he has loud music with foul language coming from houses in the area and also cars with high wattage amplifiers traveling on Buffalo Road that can be heard at his house after 11 p.m. and later.

Barbara Davis of 803 Market Street stated that she does not necessarily have a problem with the noise, but with persons from the 801 Virginia Avenue events blocking her driveway and leaving trash.

## Consideration of Request for Closed Meeting

Mayor Allgood received a motion from Vice-Mayor Torres that Clarksville Town Council convene in Closed Session pursuant to Virginia State Code section 2.2-3711A7 to discuss matters pertaining to annexation, seconded by Council member Clarke, and approve by all.

After ending the Closed Session, Mayor Allgood took a roll call vote, as follows, verifying that Council only considered items that are lawfully exempt from the Freedom of Information Act and only items identified in the motion for the closed session.

Council member Yuille	Aye
Council member Clarke	Aye
Vice-Mayor Torres	Aye
Council member Hite	Aye
Council member Nunn	Aye

Council member Nunn motioned to appoint Interim Town Manager Charles Lee, Vice-Mayor Connie Torres, and Mayor Kevin Allgood to the negotiating team to meet with the mediator in July, seconded by Council member Clarke, and approved by all

## Adjournment

With no further business, the meeting was adjourned.

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Kevin Allgood, Mayor

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Tara Murphy, Treasurer/Clerk