

WEST POINT TOWN COUNCIL

WORK SESSION MINUTES

OCTOBER 25th, 2010

I. Virginia Freedom of Information Act

Andrea Erard presented Town Council with a copy of the “Virginia Freedom of Information Act” and reviewed changes made by the General Assembly.

II. Alternative Transportation Plan / Bike & Pedestrian Trail

Mr. Hudson advised a Committee for the Planning Commission has reviewed a Bike & Pedestrian Trail for several months and are now looking for comments and suggestions from Town Council. The Finance Committee has suggested Town Council and the Planning Commission hold a Work Session on November 9th 2010 at 5 p.m. If Town Council adopts the map, then VDOT would be responsible for striping the road for bike lanes.

The consensus of Town Council is to conduct a Work Session with Planning Commission on Tuesday, November 9th 2010 at 5 p.m.

III. HVAC Systems at School Property

Mr. Funkhouser advised the School Board has completed the review of the proposed HVAC system at the High School, Middle School and Elementary School. The deadline date for the funding application is November 19, 2010. The application does not commit the school to the funds or a payment plan, it places the school system on the list for a loan.

Mr. Hudson advised he had asked Dr. Smith when the bids are due with the real cost and that information should be available before spring of 2011.

The consensus of Town Council is for the school board to submit the application to Qualified School Construction Bonds (QSCB).

Mr. Hudson advised the School Board has been told by the Finance Committee that they are expected to find some of the funds for this project, that Town Council would look for funding and that Town Council would not implement a tax increase to pay for the project.

IV. Community Cat Caretaker Alliance

Mr. Hudson advised that several members of the community attended the Public Safety Committee meeting to discuss the Community Cat Caretaker Alliance Program. Lynn Carruth spoke on behalf of the organization and has asked for the Town to cease trapping for ninety days. Ms. Carruth also asked for the King William County Animal Control to release any cat trapped with a notched ear.

Mr. Hudson advised the Cat Care Takers Alliance will be placed on the Town Council agenda for discussion.

TOWN COUNCIL MINUTES

October 25th, 2010

I. CALL TO ORDER

The West Point Town Council held its regular monthly meeting on Monday, October 25, 2010. The Honorable James H. Hudson III called the meeting to order at 6:30 p.m. Reverend Betsy Basehore gave the Invocation followed by the Pledge of Allegiance.

Members Present: Mayor, Jim Hudson; Vice Mayor, Deborah Ball; Charlie Gordon, Tina Gulley, Paul Kelley, Jack Lawson, Bub Shreaves and Chris Vincent.

Also Present: Trenton L. Funkhouser, Town Manager; Andrea Erard, Town Attorney; Karen Barrow, Town Clerk; Chief Bill Hodges, WPPD; Holly McGowan, Community Development Coordinator; Shawn Hershberger and other interested persons.

II. CITIZENS ADDRESS TO COUNCIL

A. Public Hearing – Ordinance 05-10 Zoning Fees

Mr. Hudson read the advertisement for Ordinance 05-10 and asked the Town Clerk if any of the following requests were received: 1) A request to review the application. 2) A request for assistance to attend the meeting. 3) Comments submitted in writing.

The Town Clerk advised no requests were received.

Mr. Hudson opened the floor for citizens to address Town Council on Ordinance 05-10. There being none, Mr. Hudson closed the public hearing.

B. Citizens Address to Council

Mr. Hudson opened the floor for citizens to address Town Council on any Town related business.

1. John Robins, 1126 Lee Street, West Point, Virginia advised his neighbor received a ticket for a dog running at large. Mr. Robins

suggested that a resident receive a warning for the first time offense instead of receiving a summons for court.

Mr. Hudson asked the Chief of Police to review the incident and report back to the Town Manager.

Mr. Hudson asked if any one else that would like to address Town Council. There being none, Mr. Hudson closed the Citizens Address.

III. COUNCIL RESPONSE

None were noted.

IV. AGENDA CHANGES

Mrs. Gulley placed Cat Caretakers Alliance on the Public Safety Agenda as item number two.

Mrs. Ball made a motion to approve the agenda as amended, seconded by Mr. Shreaves. Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted "Aye".

V. ADOPTION OF CONSENT AGENDA

Mr. Gordon made a motion to adopt the following consent agenda, seconded by Mrs. Ball. Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted "Aye".

1) Minutes of September 27th, 2010 Town Council Meeting and Work Session

2) Cash Reports

a) General Fund

Cash on hand as of September 30, 2010 - \$ 6,632,248.01

b) Water Fund

Cash on hand as of September 30, 2010 - \$ 5,617,046.36

c) CIP

Cash on hand as of September 30, 2010 - \$ 492,830.81

3) Monthly Budget Report

4) School Fund Cash Report

a) Cash on hand as of September 30, 2010 - \$
303,770.59

5) West Point Monthly Police Activity Report

6) Building Official Monthly Report

7) Public Works Monthly Permit Report

8) Community Development Monthly Permit Report

9) Treasurer Monthly Report

10) Economic Development Monthly Report

V. COMMITTEE REPORTS

A. Public Safety – Mrs. Gulley reported for the Committee.

1. Halloween Resolution [See Attached]

Mrs. Gulley made a motion to adopt the attached Halloween Resolution, seconded by Mr. Lawson. Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted “Aye”.

2. Community Cat Caretakers Alliance

Mrs. Gulley advised the Public Safety Committee discussed the Community Cat Caretakers Alliance for a considerable amount of time. Mrs. Gulley acknowledged the members of the Cat Caretakers Alliance in the audience and asked if anyone would like to comment on the program.

Mr. Hudson advised that the Town has received phone calls from both sides of the spectrum, members of the cat caretaker’s alliance and from citizens that would like the Town to operate a control program for the cats. Mr. Hudson also stated that the Town is no longer trapping cats. However, if a citizen requests a trap for use, the Town will lend a trap to a citizen to trap a cat, the citizen would be responsible for transportation to the animal shelter or they can call animal control for assistance.

Mr. Gordon advised the Cat Caretakers Alliance appear to be sincere to assist with the cat control program and Town Council should provide an opportunity to the Cat Caretakers Alliance with the program.

Mr. Vincent advised that he was not sure if the cat control program will secure safety regarding vaccinations and that the volunteers working for the alliance should have a chance with their program. The trespassing issues would not be addressed with the trap, neuter and release program.

Mr. Kelley advised that if a cat is trapped away from the home, it is not on its own property, it is trespassing on someone's property. If your cat is not at home, then the only logical place to call is the shelter, the only day the shelter is closed is on Sunday.

Mrs. Gulley advised that a property owner does not need permission to set out a trap on his or her property.

Mr. Kelley advised if a person decides to have a cat or dog as a pet, the pet is the responsibility of the owner and it should be the same responsibility to all pet owners, some people are able to find a way around responsibility. Mr. Kelley advised he would like the same responsibility across the board for all pet owners.

Lynn Carruth asked if Town Council would not trap for the next ninety days and for the animal warden to release any cat in a trap with a notched ear.

Mr. Hudson advised as a negotiation with Town Council, if Town Council ceases trapping for ninety days Mr. Hudson asked for the Cat Caretakers Alliance program to report back to Town Council in ninety days with a full report on the project, the number of cats trapped, released and neutered the number of volunteers and a finance report.

The consensus of Town Council is to allow the Cat Caretakers Alliance to implement a Trap, Neuter and Release Program for ninety days, Town Council agrees to ask animal control to release any cat with a notched ear.

3. Take Back the Night – Project Hope

Mrs. Gulley advised the Town has been involved with Take Back the Night for a considerable number of years and that the Project Hope organizers had named the Town of West Point as the Community Partner for 2010

B. Finance Committee

Mrs. Ball advised there was nothing to report.

C. Education Committee

Mr. Shreaves advised there was nothing to report.

D. Public Works

Mr. Gordon advised there was nothing to report.

E. Economic and Community Development

VII. TOWN MANAGER'S ITEMS

There was nothing to report.

VIII. OLD BUSINESS

A. Ordinance 03-10 – Street Vendors [*See Attached Ordinance*]

Mr. Funkhouser advised that he and the Director of Community Development meet with Mr. Johnson prior to the Finance Committee meeting to review ordinance 03-10. Mr. Funkhouser stated there are two changes shown in italics.

Mr. Lawson made a motion to adopt Ordinance 03-10, seconded by Mr. Gordon. Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted "Aye".

IX. NEW BUSINESS

A. Planning Commission Report - Mr. Hudson

Mr. Hudson advised the Planning Commission meet on October 6, 2010 to discuss the following: 1) Election of Officers. 2) Adopt the Annual Report. 3) Reviewed the Policy for Alleys/Streets and Map. 4) Reviewed proposed Bike and Pedestrian trail Map.

B. Ordinance 05-10 – Zoning Fees [*See Attached Ordinance*]

Mrs. Gulley made a motion to adopt Ordinance 05-10, seconded by Mr. Lawson.

Mrs. Ball advised that during the budget public hearing in May, Mrs. Ball had made the statement that there would be no increases in fees or taxes and now the Town is increasing fees.

Holly McGowan stated there is no fee increases, this increase is for advertising cost due to increases by the newspaper.

Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted "Aye".

C. Closed Session

Mrs. Ball made a motion for Town Council to enter into closed session pursuant to Virginia Code § 2.2-3711(A)(1) for the discussion or consideration of the resignation of a specific public officer, seconded by Mr. Vincent. Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted "Aye".

Mrs. Ball made a motion to reconvene into open meeting, seconded by Mr. Gordon. Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted "Aye".

CERTIFICATION

Mrs. Ball made a motion that Town Council certify in closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be so discussed under the provisions of the Virginia Freedom of Information Act cited in that motion. Seconded by Mr. Lawson,

Mr. Vincent made a motion for Town Council to accept the resignation of the Town Manager, seconded by Mrs. Ball. Upon roll call Mrs. Ball, Mr. Gordon, Mrs. Gulley, Mr. Kelley, Mr. Lawson, Mr. Shreaves and Mr. Vincent all voted "Aye".

X. ADJOURNMENT

There being no further business Mr. Hudson adjourned the meeting at 7:20 p.m.

James H. Hudson, III

Mayor

ATTEST:

Karen M. Barrow

Town Clerk

Adopted: October 25, 2010

ORDINANCE NO. 03-10

Ordinance No. 03-10 amends the West Point Town Code by adding section 50-50, "Findings and Intent," section 50-51, "Definitions," section 50-52, "Violations," section 50-53, "Compliance with Other Laws and Regulations," section 50-54, "Approval of Pushcarts and Mobile Units," and section 50-55, "Operational restrictions," to ADD Article IV, "Street Vendors," in Chapter 50, "Streets and Sidewalks." Ordinance No. 03-10 provides general regulations for street vending; violations of Ordinance No. 03-10 are a class 3 misdemeanor which, at this time, is punishable by a fine of up to \$ 500.

BE IT ORDAINED BY THE WEST POINT TOWN COUNCIL THAT the West Point Town Code be amended by adding section 50-50, "Findings and Intent," section 50-51, "Definitions," section 50-52, "Violations," section 50-53, "Compliance with Other Laws and Regulations," section 50-54, "Approval of Pushcarts and Mobile Units," and section 50-55, "Operational restrictions," to add Article IV, "Street Vendors," in Chapter 50, "Streets and Sidewalks" to read in its entirety as follows:

"Article IV. Street Vendors

Sec. 50-50. Findings and intent.

The Town Council finds and declares that:

- 1. The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic;**
- 2. Vending on certain public streets and sidewalks may promote the public interest by contributing to an active and attractive pedestrian environment.**
- 3. Reasonable regulation of street and sidewalk vending is necessary to secure, preserve and promote safety, welfare, comfort, convenience, trade and commerce in the town and among its inhabitants.**
- 4. The regulations contained in this article regulate certain activities which are commercial**

in nature and are not intended to restrict or prohibit pure speech or other conduct of individuals or organizations that is protected by the Constitutions of the United States and the Commonwealth of Virginia.

Sec. 50-51. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***Pushcart* means any various types of wheeled light cart to be pushed by hand, as would be used by a street vendor.**

***Mobile food unit* means a vehicle supplied with the basic equipment or materials necessary for selling food and beverages.**

***Vendor* means any person, including an employee or agent of another, engaged in the selling, or offering for sale, of food or beverages on any public street, sidewalk, or on a parcel of land abutting a public street or sidewalk, whether from a pushcart or mobile food unit.**

Sec. 50-52. Violations

Violation of any provision of this article shall constitute a Class 3 misdemeanor.

Sec. 50-53. Compliance with other laws and regulations

(a) Prior to selling, displaying or offering for sale any food or beverage vendors must obtain any and all licenses and/or permits that are required by federal, state or local law.

(b) All required licenses, permits and approvals shall be displayed for public view on the vendor's stand, and no such item(s) shall constitute a "sign" for purposes of section 70-24 of the town's zoning ordinance.

Sec. 50-54. Approval of appropriateness for pushcarts and mobile units.

(a) A zoning application shall be submitted to the town's zoning administrator, and the zoning administrator shall conduct an administrative review of the application. The application shall identify the size of the proposed pushcart or mobile food unit and shall include graphic or other

descriptions of the nature and characteristics of the proposed cart or mobile unit. Vendors shall comply with the regulations and requirements set forth within this article governing the size, appearance and operational restrictions applicable to pushcarts and mobile food units. Addition of features or accessories not specifically approved for a vendor shall constitute a violation of this article.

(b) Upon approval of the zoning application the zoning administrator shall issue the approved zoning application following receipt of the fee specified in the fee schedule approved by Town Council. If the application is denied, the zoning administrator shall mail or hand-deliver written notice of that decision to the applicant, which notice shall set forth the specific reason(s) for the denial with reference to specific ordinances, laws or regulations. A vendor aggrieved by the zoning administrator's decision under this section may appeal the decision to the Board of Zoning Appeals, pursuant to section 70-84 of the West Point Town Code.

(c) The zoning administrator may revoke a zoning application for a violation of any requirement of this article.

(c) Zoning approval shall be and remain valid for not more than one (1) calendar year and shall expire automatically on the last day of the calendar year for which it was issued.

Sec. 50-55. Operational restrictions.

(a) Vending on public streets and sidewalks or land abutting public streets and sidewalks is prohibited, except in districts designated as business, special development or mixed-use corridor districts under Chapter 70 of the West Point Town Code.

(b) No vendor's pushcart shall exceed: six (6) feet in height or ten (10) feet in length and width (measured from the outermost edges of all display cases, display racks, and other display areas associated with the pushcart).

(c) No vendor shall operate in the town except between the hours of 6:00 a.m. to 10:00 p.m.

(d) Each pushcart or mobile food unit shall be attended at all times during operational hours by at least one (1)

person under the direction or control of the vendor to whom the pushcart or mobile food unit belongs.

(e) Any device or equipment that utilizes or generates any open fire or flame for the heating or cooking of food or beverages shall be designed for its intended use and such design shall be approved by a nationally recognized testing, rating or regulatory organization.

(f) No vendor shall operate or use a motor-propelled pushcart.

(g) All trash or debris accumulating within twenty (20) feet of any vendor shall be collected and disposed of by the vendor in an appropriate receptacle. Vendors of food and beverages must provide trash receptacles as part of the operation of pushcarts or mobile food units. Town owned or maintained receptacles on streets, alleys, sidewalks and publicly owned lands shall not be used by vendors for disposal of trash or debris.

(h) A vendor shall comply immediately with the lawful request of any police officer, firefighter, rescue service person, emergency medical technician, or any town or public utility employee to move a pushcart or mobile food unit for emergency reasons, or to permit maintenance of pavement, utilities or other public improvements or facilities.

(i) No temporary or permanent water, sanitary sewer, or storm drainage connections, except as may be approved by the building official or Hampton Roads Sanitation district, are permitted from a push cart or mobile food unit to public or private utility systems.

(j) Pushcarts and mobile food units shall not be located less than 100 feet from an occupied residential dwelling.

(k) No more than two double-faced signs measuring not greater than 16 square feet in area per face shall be permitted at the location of any pushcart and or mobile food unit. This sign limitation does not include signage attached to or part of a pushcart or mobile food unit. Off-premises advertising or directional signs are prohibited. No pushcart or mobile food unit shall have flashing lights or digital message devices.

(l) Permanent structures, carports, and sheds shall not be permitted with the operation of a pushcart and/or mobile food unit.

(m) Pushcarts or mobile food units shall have self-contained power or fuel sources. No electrical or fuel source connection to adjacent structures shall be permitted except as may be approved by the Town Building Official and such review and approval may require one or more building permit applications or a requested inspection accompanied by applicable fees. No electrical service or other source of electrical power or fuel shall be provided to solely serve pushcarts or mobile food units.

(n) No music, sounds, other noise, flags, pennants, spotlights, animated devices or similar features shall be used by vendors for advertising or attraction purposes.

(o) The Town reserves the right to consult with, local, state and federal agencies regarding vendor applications and to deny or modify such applications if such agencies indicate approval as submitted by a vendor would be contrary to the regulations, rules or policies of such agencies.

(p) The Town reserves the right to establish separate rules and regulations for the operation of pushcarts and mobile food units on lands owned, leased or otherwise controlled by the Town.”

Ordinance 03-10 shall take effect upon adoption.

Vote:

Mrs. Ball “Aye”

Mr. Gordon “Aye”

Mrs. Gulley “Aye”

Mr. Kelley “Aye”

Mr. Lawson “Aye”

Mr. Shreaves “Aye”

Mr. Vincent “Aye”

ADOPTED: October 25, 2010

ORDINANCE NUMBER 05-10

Ordinance No. 05-10 amends Chapter 28, "FEES," Article VI, "ZONING," to add Section 28-66, "advertisement/notice of public hearing," to the West Point Town Code to add a filing fee of \$200.00 shall accompany each application that requires A notice of public hearing before town council, planning commission, board of zoning appeals, OR wetlands board. In cases where a notice of public hearing is required for both town council and the planning commission, a filing fee of \$400.00 shall accompany each application.

ARTICLE VI. ZONING

BE IT ORDAINED BY THE WEST POINT TOWN COUNCIL THAT the West Point Town Code, Chapter 28, "Fees" Article VI "Zoning," be amended by adding section 28-66, "Advertisement/Notice of Public Hearing," to read in its entirety as follows:

Sec. 28-50. Zoning permit.

A filing fee of \$25.00 shall accompany each application for a zoning permit.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-51. Zoning ordinance amendment.

A filing fee of \$200.00 shall accompany each application for an amendment to a zoning ordinance.

(Ord. of 6-1-98)

Sec. 28-52. Rezoning.

A filing fee of \$300.00 plus \$25.00 for each acre shall accompany each application to change the zoning classification of property.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-53. Conditional use permit.

A filing fee of \$250.00 shall accompany each application for a conditional use permit.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-54. Special use permit.

A filing fee of \$250.00 shall accompany each application for a special use permit.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-55. Special exception permit.

A filing fee of \$250.00 shall accompany each application for a special exception permit.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-56. Zoning variance.

A filing fee of \$250.00 shall accompany each application for a zoning variance.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-57. Appeals to the board of zoning appeals.

A filing fee of \$225.00 shall accompany each appeal to the board of zoning appeals.

(Ord. of 6-1-98)

Sec. 28-58. Minor site plan review.

A filing fee of \$50.00 shall accompany each request for a minor site plan review.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-59. Major site plan review.

A filing fee of \$300.00 plus \$25.00 for each acre shall accompany each request for a major site plan review.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-60. Zoning permit (after the fact).

A filing fee of \$250.00 shall accompany each application for a building permit (after the fact).

(Ord. of 6-1-98)

Sec. 28-61. Building permit (after the fact).

A filing fee of \$250.00 shall accompany each application for a building permit (after the fact).

(Ord. of 6-1-98)

Sec. 28-62. Lot line vacation.

A filing fee of \$100.00 shall accompany each application for a lot line vacation.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-63. Land disturbing permit.

A filing fee of \$50.00 shall accompany each application for a land disturbing permit not located within a resource protection area. A filing fee of \$90.00 plus \$10.00 for each acre shall accompany each application for a land disturbing permit located within a resource protection area.

(Ord. of 6-1-98; Ord. No. 03-03, 4-28-03)

Sec. 28-64. Fences.

A filing fee of \$10.00 plus \$2.00 per \$1,000.00 of actual construction cost shall be submitted with each application to erect a fence.

(Ord. of 6-1-98)

Sec. 28-65. Zoning ordinance copy.

A filing fee of \$25.00 shall accompany each request for a copy of the town's zoning ordinance.

(Ord. of 6-1-98)

Sec. 28-66. Advertisement/Notice of Public Hearing

A filing fee of \$200.00 shall accompany each application that requires a Notice of Public Hearing before Town Council, Planning Commission, Board of Zoning Appeals, or Wetlands Board. In cases where a Notice of Public Hearing is required for both Town Council and the Planning Commission a filing fee of \$400.00 shall accompany each application.

Secs. 28-66--28-69. Reserved.

Ordinance 05-10 shall take effect upon adoption.

VOTE:

Mrs. Ball “Aye”

Mr. Gordon “Aye”

Mrs. Gulley “Aye”

Mr. Kelley “Aye”

Mr. Lawson “Aye”

Mr. Shreaves “Aye”

Mr. Vincent “Aye”



TOWN OF WEST POINT HALLOWEEN RESOLUTION

RESOLVED, that all trick-or-treaters on Halloween night, Sunday, October 31, 2010 in the Town of West Point may canvass no later than 8:00 p.m. and masks may not be worn by any persons canvassing who is older than 13 years of age.

Certified to be a true copy of a resolution adopted by the Town Council of the Town of West Point at its regular monthly meeting held October 25, 2010 at which meeting a quorum was present and voted throughout.

Karen M. Barrow, Town Clerk