

**TOWN OF WEST POINT
TOWN COUNCIL
WORK SESSION
MINUTES
February 27th 2023**

I Flood Plan Ordinance, 02-2023

Mr. Edwards advised that Ms. McGowan sent out an email to Town Council last week regarding the questions Town Council had with: 1) the 600 square feet for an accessory structure, 2) the height of the freeboard and 3) What is the benefit of a signed declaration of Land Restriction. 4) The RAD process. Mr. Edwards asked Ms. McGowan to review the changes.

Ms. McGowan advised that she removed manufactured homes throughout the ordinance because they are not allowed in Town. DCR has asked for manufactured homes to remain in the definitions and for the town to put a statement under section 71 stating that manufactured homes are prohibited in the flood area. Ms. McGowan stated that the following are the answers to the questions above. 1) The maximum square footage for an accessory structure is 600 square feet in the flood area. 2) FEMA is recommending 18 inches. However, 2 feet would give the property owner a lower insurance rate. 3) The benefit is to ensure the current owner will comply, but also avoids future violations if the property changes hands. 4) RAD is a policy that will be addressed by FEMA Staff once the town ordinance has been reviewed and accepted by FEMA.

The consensus of Town Council is for the town to move forward with Ms. McGowan's suggested changes and to place the "Request for Authorization to Advertise a Public Hearing" on the Town Council agenda.

II Historical Society Signs

Mr. Edwards presented Town Council with an email from Melissa Anderson regarding the response from the Virginia Board of Historic Resources regarding the placement of the Historical Society markers in the VDOT right-of-way. Mr. Edwards also stated the if the Town moves forward with the Historical Society Sign project, the Town would be responsible for fact-checking all text on the signs for accuracy; ensuring the signs are regularly maintained and for submitting the applications to VDOT and the Historic Resources Marker Program.

Mr. Hudson asked when we put the Town seal on a sign, are we saying the information is accurate. If Bill Palmer does the research, the information is most probably accurate, but if the information comes from another resource, are we going to go behind that resource to do our own research to verify the facts?

Mr. Edwards advised that we are endorsing the information when we put the town seal on any sign and it will take a lot of staff time to verify the information for accuracy.

Mr. Lawson advised that the VDOT right-of-way is a not good location for any sign especially on Kirby Street. You would have to put a sign in the marsh.

Mr. Edwards stated that originally in the beginning the Historical Society was told that we would work with them to find a location on Town owned property for their signs. We told them they could put two signs at Beach Park, they did not like the location and they only put one sign at Beach Park, the second sign went on private property. We are willing to help them find a location on town owned property or they can obtain permission to place signs on private property.

Mr. Nein stated that the Historical Society came to the Town with all their current signs. If there is a specific sign that they want to talk about, we could review that sign individually. Mr. Nein asked what the overhead was for the Town to administer the signs.

Mr. Edwards stated, that the Town would have to establish a local historical sign program that is not administered by the Historical Society, town staff would have to do the research, submit

applications to VDOT, the Virginia Historic Resource Marker Program, and maintain the signs with repairs.

The consensus of Town Council is continue with the original arrangement of providing assistance to find locations on Town owned property or the Historical Society can work with private property owners for locations.

III Joint Budget Work Session with School Board

Mr. Edward stated that the Joint Budget Work Session with the School Board is scheduled for Tuesday, March 7th 2023 at 5:30 p.m. at the High School cafeteria, tonight's meeting needs to be continued until March 7th 2023. Mr. Edwards also stated that after the joint meeting, he generally holds individual meetings with Town Council members, and will be contacting each Council member to schedule a meeting.

IV. Videotaping of Town Council Meetings

Mr. Edwards advised that currently we are videotaping the Town Council meeting, downloading it to YouTube, then posting a link to the video on the Town's website. Town Staff are exploring the possibility of being able to go live with Town Council meetings. Mr. Edwards asked if there was any objection to going live with the meetings. We would continue to video the one main meeting unless Council wanted to tape other meetings.

The consensus of Town Council is for the Town Manager to proceed with the possibility of going live for Town Council meetings to see how that works out then review other possibilities later.

V. GoVa - Changes in Funding

Mr. Edwards advised that the town received the award of the grant, and they still want to give us the grant, but they have changed the rules and funding match. The original match for the Town was \$35,000, it has been changed to \$57,000. We am working to try and turn it back into the original GoVa grant.

VI. Library Relocation Update

Mr. Edwards advised that he has a meeting with the architect next week to review the final drawing so it can be submitted to the building official and to review a revised budget estimate. We are reviewing the lease agreement with the landlord that includes the former Tidewater Review portion of the building.


Mr. Hudson asked how much the repairs would cost to update the current building.

Mr. Edwards stated that the roof needs to be replaced, the HVAC, carpet, updates involving the computer lab. They want to do away with the computer lab and install charging stations. The new building has 400 square foot more floor space than the current building. Mr. Edwards also stated that King William will not give the town funds for renovations to the current building, they have pledged funds as a match for the relocation.


Mr. Lawson asked if Town Council wanted to continue with the project.

Mr. Edwards stated that he would know more about the price by the next committee meeting.

The consensus of Town Council is to continue with the project.


Joshua T. Lawson
Mayor

ATTEST:


Karen M. Barrow
Town Clerk

**TOWN OF WEST POINT
TOWN COUNCIL
MINUTES
February 27th, 2023**

I. CALL TO ORDER

The West Point Town Council held its regular monthly meeting on Monday, February 27th, 2023. The Honorable Joshua T. "Jack" Lawson called the meeting to order at 6:30 p.m. The Invocation was given by Reverend Jim Gobel followed by the Pledge of Allegiance.

Reverend Gobel advised that the Lent Soup and Sermon will begin this Wednesday at noon at St. John's church, there has not been a Lent Sermon since before COVID.

Members Present: Mayor, Jack Lawson; Deborah Ball, Vice Mayor; Jim Hudson; Robert Lawrence; Johnny Nein; James Pruett, John Ragsdale and Chris Vincent.

Also Present: John B. Edwards, Jr., Town Manager; Andrea Erard, Town Attorney; Karen Barrow, Town Clerk; Tim Sawyer, Chief of Police; Holly McGowan, Community Development Coordinator; Susan Lathan, Town Treasurer; Walt Feurer, Director of Public Works; Donna Pauley, Human Resource Officer; Ron Minick, Building Inspector, Spencer Cheatham, Fire Chief, and Melissa Anderson, Communications Manager.

II. CITIZENS ADDRESS TO COUNCIL

A. Resolution to Honor Tina Gulley

Mr. Lawson stated that Mrs. Gulley is not feeling well this evening and is not available to attend the meeting to accept the resolution, the Town will make arrangements to get the resolution to Mrs. Gulley when she is feeling better.

B. FY 2021-2022 Audit

Michael Lupton, Representative for Robinson, Farmer, Cox & Associates advised that the printed audit will not be available till the end of this week. Mr. Lupton reviewed the letter of communication and stated that there were no difficulties during the audit. Mr. Lupton reviewed the total Revenue, Expenditures, Debt Service, and advised that the unassigned fund balance was \$4.92 million.

Mr. Hudson asked if Mr. Lupton is available to take questions and return to review the audit once we have the opportunity to review the full audit.

Mr. Lupton stated yes, that he can take questions via email or a representative can return to review the full audit.

Mr. Edwards advised that he wants to address the undesignated fund balance. The reason the increase is so large is because a number items in the budget last year did not get done. We do plan to proceed with those projects this year so the funds will be appropriated this year.

C. Citizens Address to Council

Mr. Lawson opened the floor for citizens to address Town Council on any Town related business. There being none, the Citizens Address was closed.

III. COUNCIL RESPONSE

None was noted.

IV. AGENDA CHANGES

Mr. Edwards asked for Flood Ordinance 02-2023 to be placed on the agenda for Authorization to Advertise a Public Hearing.

Mr. Vincent made a motion to adopt the agenda as amended, seconded by Mr. Lawrence. Upon roll call Mrs. Ball; Mr. Hudson; Mr. Lawrence; Mr. Nein; Pruett; Mr. Ragsdale and Mr. Vincent all voted "Aye". The motion was approved.

V. ADOPTION OF CONSENT AGENDA

Mrs. Ball made a motion to adopt the following consent agenda, seconded by Mr. Lawrence. Upon roll call Mrs. Ball; Mr. Hudson; Mr. Lawrence; Mr. Nein; Pruett; Mr. Ragsdale and Mr. Vincent all voted "Aye". The motion was approved.

- 1) Town Council and Work Session minutes of January 30th 2023
- 2) Cash Reports
 - a) General Fund
Cash on hand as of January 31st 2023 - \$9,125,891.92
 - b) Water Fund
Cash on hand as of January 31st 2023 - \$3,004,576.70
 - c) CIP
Cash on hand as of January 31st 2023 - \$(359,688.01
 - d) Solid Waste
Cash on hand as of January 31st 2023 - \$368,208.49
- 2) Monthly Budget Report
- 3) School Fund Cash Report
 - a) Cash on hand as of January 31st 2023 - \$578,980.54
- 4) West Point Monthly Police Activity Report
- 5) Building Official Monthly Report
- 6) Public Works Monthly Permit Report
- 7) Community Development Monthly Permit Report
- 8) Treasurer Monthly Report
- 9) Human Resource Monthly Report
- 10) Fire Department Monthly Report

VI. COMMITTEE REPORTS

A. Economic and Community Development – Mr. Pruett reported for the Committee

Mr. Pruett advised that the Community Development Committee met to discuss the Historical Society signs, the Floodplain Ordinance, and the Town Manager gave an update on the Library relocation. The next meeting is March 14th 2023 at 4:00 p.m.

B. Education Committee – Mr. Ragsdale reported for the Committee

Mr. Ragsdale advised there was no report.

C. Finance Committee – Mrs. Ball reported for the Committee

1 BZA/Wetlands Appointment

Mrs. Ball made a motion to appoint Teresa Glidewell to the Wetlands Board and to recommend that Judge Bondurant of King William Circuit Court appoint Teresa Glidewell to the West Point Board of Zoning Appeals for the unexpired term of Stuart Daniel expiring September 30th 2026, seconded by Mr. Ragsdale. Upon roll call, Mrs. Ball, Mr. Hudson, Mr. Lawrence, Mr. Nein, Mr. Pruett, Mr. Ragsdale and Mr. Vincent all voted "Aye". The motion was approved.

2 Public Safety – Mr. Vincent reported for the Committee

Mr. Vincent advised there was nothing to report.

3 Public Works – Mr. Lawrence reported for the Committee

Mr. Lawrence advised there was nothing to report.

VII. TOWN MANAGER'S ITEMS

Mr. Edwards advised there was nothing to report.

VIII. OLD BUSINESS

A. Transient Tax – Ordinance 01-2023

Mr. Edwards advised that Town Council held a public hearing last month. There was some concerns from the Commissioner of Revenue regarding the ordinance, the ordinance was sent back to the finance committee for further review.

Mrs. Ball made a motion to adopt the Transient Tax Ordinance 01-2023, seconded by Mr. Hudson. Upon roll call, Mrs. Ball, Mr. Hudson, Mr. Lawrence, Mr. Nein, Mr. Pruett, Mr. Ragsdale and Mr. Vincent all voted "Aye". The motion was approved.

IX. NEW BUSINESS

A. Planning Commission Report - Mr. Pruett

Mr. Pruett advised that the Planning Commission held an organizational meeting in February. Britney Ball was elected Chairperson and Theresa Glidewell was elected Vice Chairperson

X. RECESS

Mayor Lawson recessed the meeting until March 7th 2023 at 5:30 p.m. in the high school cafeteria.



Joshua T. Lawson
Mayor

ATTEST:



Karen M. Barrow
Town Clerk

ADOPTED: February 27th 2023

ORDINANCE NO. 01-2023

AN ORDINANCE TO AMEND THE WEST POINT TOWN CODE TO ADD THE REQUIREMENT OF A SEVEN PERCENT (.07) TRANSIENT OCCUPANCY TAX. ORDINANCE NO. 01-2023 WILL TAKE EFFECT ON JULY 1, 2023. TRANSIENT OCCUPANCY TAX RETURNS ARE DUE MONTHLY ON THE TWENTIETH OF THE MONTH; THE FIRST TRANSIENT OCCUPANCY TAX RETURNS WILL BE DUE ON AUGUST 20, 2023. THERE IS A TEN PERCENT PENALTY FOR LATE FILING, PLUS A CHARGE OF TEN PERCENT INTEREST PER ANNUM SHALL ACCRUE AND BE ADDED TO ALL DUE AND UNPAID TAXES BEGINNING WITH THE FIRST DAY OF THE NEXT MONTH, UNTIL THE RETURN FILED AND THE TAXES ARE PAID.

BE IT ORDAINED by the West Point Town Council that the Code of the Town of West Point be amended by adding Article VII, "Transient Occupancy Tax," as follows:

"Article VII. Transient Occupancy Tax.

Sec. 58-110. - Definitions.

For the purposes of this Article, the following words and phrases mean as follows, except where the context clearly indicates a different meaning:

Accommodations mean any room or space, suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes, where a price is paid in a retail sale by or for a transient for the use or possession of the room or space in any hotel, motel, boarding house, travel campground, short-term rental, homestay or other facility offering guest rooms rented out for continuous occupancy for fourteen (14) consecutive days or fewer.

Accommodations fee means the room charge less the discount room charge, if any, provided that the accommodations fee may not be less than \$0.

Accommodations intermediary means any person other than an accommodations provider that facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

Accommodations intermediary does not include a person:

- (1) If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person; or
- (2) Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person.

Accommodations provider means any person who furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

Affiliate means with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with such person. For purposes of this definition, "control" (including controlled by and under common control with) means the power, directly or indirectly, to direct or cause the direction of the management and policies of such person whether through ownership or voting securities or by contract or otherwise.

Discount room charge means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

Operator means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

Person includes, but is not limited to, an individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals acting as a unit.

Retail sale means a sale to any person for any purpose other than for resale.

Room charge means the full retail price charged to the customer by the accommodations intermediary for the use of the accommodations, including any accommodations fee, before taxes. The room charge will be determined in accordance with state law and regulations, and related rulings of the Virginia Department of Taxation on the same.

Short-term rental means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for fourteen (14) consecutive days or fewer, in exchange for a charge for the occupancy.

Transient means the same person who, for a period of fourteen (14) consecutive days or fewer, either at his own expense or at the expense of another, obtains the use or possession of a room or space in any accommodation for which a charge is made in a retail sale.

Section 58-111. - Transient occupancy tax imposed; amount.

There is hereby imposed and levied by the town on each transient a tax equal to seven percent of the total amount paid in a retail sale by the customer for any accommodation. Such tax must be collected from such transient at the time and in the manner provided in this Article.

Section 58-112. - Collection and Billing of Tax.

- (a) For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider must collect the tax imposed pursuant to this Article, computed on the total price paid for the use or possession of the accommodations. The accommodations provider must separately state the amount of the tax in the bill, invoice, or similar documentation and must add the tax to the total price paid for the use or possession of the accommodations.
- (b) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary will be deemed under this Article as a facility making a retail sale of an accommodation. The accommodations intermediary must collect the tax imposed pursuant to this Article, computed on the room charge. The accommodations intermediary must separately state the amount of the tax on the bill, invoice, or similar documentation and add the tax to the room charge; thereafter, such tax is a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.
- (c) If the total price paid by the customer for any accommodation includes any charge for services in addition to that of use or possession of the room or space occupied, then such portion of the total charge as represents only use or possession of the room or space occupied must be distinctly set out and billed to such transient as a separate item.
- (d) Every person receiving any payment in accordance with the provisions of this section for any accommodation with respect to which a tax is levied under this Article must collect the amount of tax thereby imposed from the transient on whom the tax is levied, or from the person paying for such accommodation, at the time payment for such accommodation is made. Such tax will be deemed to be held in trust by the person required to collect the tax until remitted to the town as required in this Article.

Section 58-113. - Advertising payment or absorption of tax.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this Article will be paid or absorbed by anyone, or that any purchaser will be relieved of the payment of all or any part of the tax.

Section 58-114. Report of collection and remittance of tax.

- (a) *Generally.* Except as provided in subsections (b) and (c), the person collecting the tax levied under this Article is liable for the tax and must make a report upon such forms and setting forth such information as the treasurer may prescribe and require. Such reports must show the amount of room rental charges collected and the tax required to be collected and must be signed and delivered to the treasurer with a remittance of such tax. Such report and remittance must be made at least once in every 30-day period and not later than the twentieth day of the month next following the month in which such tax was collected.
- (b) *Accommodations at hotels facilitated by accommodations intermediaries.* Notwithstanding the provisions of subsection (a), for any retail sale of accommodations at a hotel facilitated by an accommodations intermediary, the accommodations intermediary must remit the taxes on the accommodations fee to the town and remit any remaining taxes to the hotel, which must remit such taxes to the town.
- (c) *Limitation of liability for accommodations intermediaries.* Notwithstanding the provisions of subsection (a), an accommodations intermediary is not liable for taxes under this Article remitted to an accommodations provider but that are then not remitted to the town by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider is liable for that portion of the taxes under this Article that relate to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.

Sec. 58-115. - Collector's records.

Every person liable for the collection and payment to the town of any tax imposed by this Article shall keep, for two years, all records necessary to determine the amount of the tax as he may have been responsible for collecting and paying to the town. The treasurer may inspect such records at all reasonable times.

Section 58-116. - Cessation of business; tax due immediately.

Whenever any person required to collect and pay to the town a tax imposed by this Article shall cease to operate, go out of business, or otherwise dispose of his business, any tax then payable to the town shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the treasurer.

Sec. 58-117. - Penalty for late remittance or false return and payment of tax.

- (a) If any person, whose duty it is so to do, shall fail or refuse to file with the treasurer the report and pay the tax that is due as required under this Article within the time specified in this Article, there shall be assessed a penalty in the amount of ten percent of the tax assessable. Such penalty shall be assessed on the day following the day on which the report and tax payment were due, unless otherwise provided by state law. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report and pay any tax required in this Article.
- (b) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due unless otherwise provided by state law.

Sec. 58-118. - Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this Article or to make within the time provided in this Article the reports and remittance required in this Article, the treasurer shall make an estimate of the amount of taxes due the town by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this Article. The treasurer shall notify such person by first class mail and certified mail, return receipt requested, sent to such person's last known place of address, of the amount of such tax and interest and penalty, and the total amount

thereof shall be payable within ten days from the date of the notice or that the notice is mailed, whichever is later.

- (b) The treasurer may have a summons issued for any person in the town who fails or refuses to collect the tax imposed by this Article or to make, within the time provided by this Article, the reports or remittances required in this Article.

Sec. 58-119. - Criminal penalties.

Any corporate or partnership officer, or any other person required to collect, account for and pay over the tax levied in this Article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a Class 1 Misdemeanor."

This Ordinance shall take effect on July 1, 2023.



Joshua T. Lawson
Mayor

ATTEST:



Karen M. Barrow
Town Clerk