

FLOYD TOWN COUNCIL MEETING
W. SKIP BISHOP JR., TOWN HALL
October 21, 2021
5:30 P.M.
MINUTES

MEETING CALL TO ORDER – Mayor Griffin called the October 21, 2021, meeting of the Floyd Town Council to order.

ROLL CALL – Vice Mayor Patton, Councilman Turner, Councilman Whitaker, Councilman Bond, Mayor Griffin, Town Manager Cox, and Town Clerk Holfield were present. Town Attorney Murrell and Shortt were present via Zoom.

MOMENT OF SILENT PRAYER-

Mayor Griffin called for a moment of silent prayer.

PLEDGE OF ALLEGIANCE-

Councilman Turner led those present in the Pledge of Allegiance.

CITIZENS COMMENTS-

Mrs. Linda Wagner stated that she is not an elected official, she is a citizen and taxpayer of the Town. She noted that she had been denied the access to be on the agenda tonight and as a citizen she should be allowed the right to be on the agenda. She stated that her comments are extensive and cannot be covered during the comment period and it is discrimination by denying her this right. Exceptions have been made for last minute changes to prior agendas. She went on to voice concerns about the number of cats through out Town. She stated that she feels like some of them stem from the cats that get fed on Councilman Patton and his wife Janice's porch. She noted that the cats lodge along her property drive her pets nuts and making a nuisance to the Town. She asked if the Town has an ordinance about stray and abandoned animals. She stated that where she's from the person that is feeding stray animals becomes responsible for everything about the animal(s). She asked that if there is not policy then she suggested that Planning Commission or Town Council write one.

Mrs. Wagner went on to comment about the new lighting at Hardee's that was addressed by Mr. Billy Weitzenfeld at the last Town Council meeting and the way that it would impact his property. She stated that comments within the meeting were made that the parking lot lighting would be disruptive, and council asked if the Hardee's representative could address flexibility in their proposal. She noted that Councilman Turner asked Hardee's representative if they would consider fencing to cover the lighting and Vice Mayor Patton stated that a good neighbor is sensitive to another neighbor's property. She continued by stating that during the conversation with the Hardee's representative that Vice Mayor Patton offered to buy the Hardee's rep a burger, and she called that bribery. She noted that she had the same concerns when the lighting was installed a Hotel Floyd and Mayor Griffin and Town Manager Cox visited her home

so they could see the lighting through her kitchen window and noted that she could not even sit at her dining room table. She stated that she never received a response for Mayor Griffin or Town Manager Cox and called it avoidance, discrimination and racism. She stated that anytime you disagree within anyone these days it is racism.

Mrs. Wagner stated that discrimination and racism was also a theme and before she had a problem with the lighting at Hotel Floyd. She noted that she wrote letters or called about the protruding nails along each board of the fence that was installed along her property line and the trail. She stated that the hazard must have been another nonissue and questioned if it is avoidance, discrimination, harassment, bullying, because nothing was done.

Mrs. Wagner stated the Vice Mayor Patton stated in the last meeting that we are treating the Wagner's just like anyone else and went on to talk about the avoidance of Johnathan Roger's shrubs long Oxford Street and Main Street. She stated that Attorney Shortt was tasked with resolving the issue years ago and it remains unresolved, it is a hazard and Town Council does nothing. She went on to talk about her trees that hang about 15 feet in the air above the fence along her property and someone was hired by the Town to cut those limbs and they ended up in her yard. She stated that she contacted Mayor Griffin because they were not hauled away. She calls it avoidance, discrimination, bullying, harassment, racism because nothing was done. She stated that her additional comments were meant for her presentation, but she will share those when she's allowed to speak on the agenda.

PRESENTATION-

A. Thompson and Litton—Town Hall Project Update

Mr. Barry Collier, Project Architect/Project Manager with Thompson and Litton shared Town Hall project design changes with council members. He stated that he spoke with Mr. Mark Bolt, Floyd County Building Official and shared the design plans. Mr. Bolt stated that since the Town Hall and Town Office building will be connected by a lobby area, the Town Office bathroom can be counted as one of the two required restrooms. Mr. Bolt also noted that a utility sink must be installed during the renovations. Mr. Collier made changes to the Town Hall design plans and turn one of the restroom areas shown on the original plans into a utility/storage closet.

Mr. Collier went on to talk about the civil site plan that includes grading and drainage. The design of the parking lot will divert the water flow away from the buildings, down the drive ale and into the culverts. He went on to state that it had been mentioned that council would like a vegetative barrier to be added between the Town Hall and the adjoining property. Mr. Collier stated that if a vegetation barrier is added then the culvert for the water would need to shift and this could potentially cause additional water issues in the basement of Town Hall which the engineers are trying to fix. He suggested that a fence could be used as barrier between the properties and the culvert would not need to be shifted.

Vice Mayor Patton stated that he was puzzled as to why Mr. Bolt did not make this recommendation from the beginning. This change means the council building will be losing a bathroom, someone is going to have to go out of their way. Vice Mayor Patton continued by asking where the water off the parking area will go and if there will be clear division line between the properties, someday that may be an issue for the neighbor and the Town.

Mr. Collier stated that change from the bathroom to a utility area it not set in stone however a space would need to be provided for the utility sink that is required by the building code. The deign team was trying to be financially responsible with what they had to work with. Vice Mayor Patton questioned the additional cost associated with the changes. Mr. Collier stated that if a utility area had to be created it could cost around \$2,000 to \$3,000, the cost would be for additional walls, sink, door, etc. They continued the discussion by talking about the water and culvert area. Mr. Collier noted that a new culvert would be installed to push the water away from the building to help with the drainage problems in the basement of town hall. He stated vegetation could still be an option but would impact the site and changes to the drainage area, culvert and drop inlet.

Councilman Whitaker questioned if two bathrooms were need in Town Hall. Councilman Bond stated that he would like the utility sink to be in its own area not just within one of the existing restrooms. Vice Mayor Patton state that if just one restroom was installed it would be a unisex restroom. Would that be, ok?

Mr. Collier noted that internal documents should be complete by mid-November and should be ready to go out to bid on November 17th.

ITEMS FOR DISCUSSION-

A. Financials-

Council members reviewed the September financials provided in their packets. Town Manager Cox stated that revenues are exceeding the project budgeted amounts and noted that two expense line items are over budget, Credit Card Processing fees and Vehicle Maintenance. We are seeing more and more interest in using credit cards for payment and we may want to consider charging a small fee to cover the costs we are incurring. She also reported, we have had some issues out of the 1999 Dodge dump truck and have incurred some maintenance costs above what we had budgeted this year.

Vice Mayor Patton questioned the amount that is being processed on credits cards each month and the number of transactions. Town Manager Cox stated that about \$2500 a month is being processed on credit cards. Mayor Griffin added that we had only budgeted for \$300 in credit card fee and to date we have incurred \$320.

Town Manager Cox stated that meals tax and loan pool accounts are all staying current. She noted that there was a discrepancy on the loan pool account spreadsheet, all accounts are current.

Councilman Patton asked if Christmas lights had been purchased and noted the \$550 amount shown in the line item. Town Manager Cox stated that the line item has been used for Christmas lights and welcome banners in the past. The \$550 is for replacement welcome banners (1 set-spring & 1 set-fall). Town Manager Cox stated the banners were designed by Town Clerk Holfield and purchased locally at Finn Graphics.

B. Board Appointments-

Mr. Paul LeMay has stepped down from his position on the Loan Pool Advisory Board. The board met last week, and they have recommended that Mr. Billy Weitzenfeld be appointed to fill Mr. LeMay's position.

Vice Mayor Patton makes a motion, seconded by Councilman Bond and passed, to appoint Mr. Billy Weitzenfeld to Town Loan Pool Advisory Board.

Councilman Turner-aye
Councilman Whitaker-aye
Councilman Bond-aye
Vice Mayor Patton-aye
Mayor Griffin-aye

Town Manager Cox noted that she had spoken with Dr. Linda Millsaps, Floyd County Administrator regarding the Tourism Advisory Board appointments. It was consensus to consider two of the following citizens as town representatives since they own businesses in Town, Mrs. Kamala Bauers, owner of Hotel Floyd, Mr. Dylan Locke, owner of the Floyd Country Store and County Sales, or Mrs. Joanne Bell, owner of Bell Gallery.

Vice Mayor Patton makes a motion, seconded by Councilman Bond and passed, to appoint Mr. Dylan Locke and Mrs. Kamala Bauers to Tourism Advisory Board to hold staggering terms ending December 31, 2022, and December 31, 2023.

Councilman Turner-aye
Councilman Whitaker-aye
Councilman Bond-aye
Vice Mayor Patton-aye
Mayor Griffin-aye

Vice Mayor Patton stated that he had spoken with several citizens about serving on the Zoning Board of Appeal. He noted that Mr. Steven Lawrence and Ms. Lois Akers would be willing to serve on the board.

Vice Mayor Patton makes a motion, seconded by Councilman Bond and passed; Mr. Steven Lawrence was recommended for the judicial appointment to the Town of Floyd Zoning Board of Appeals to serve a term ending April 30, 2024.

Councilman Turner-aye
Councilman Whitaker-abstain
Councilman Bond-aye
Vice Mayor Patton-aye
Mayor Griffin-aye

Vice Mayor Patton makes a motion, seconded by Councilman Turner and passed; Ms. Lois Akers was recommended for the judicial appointment to the Town of Floyd Zoning Board of Appeals to serve a term ending April 30, 2024.

Councilman Turner-aye
Councilman Whitaker-abstain
Councilman Bond-aye
Vice Mayor Patton-aye
Mayor Griffin-aye

Councilman Turner asked if the zoning board of appeals positions had been advertised. Town Manager Cox stated she has continued to advertise the positions with other open appointments to save on advertising cost. It is hard to find citizens who are willing to serve.

Councilman Whitaker stated that he abstained from the motions above because he is not familiar with the citizens and didn't feel that he had enough information to make an advised vote. Vice Mayor Patton stated that Mr. Lawrence lives on Penn Ave and is a retired educator and musician. He recently moved back to Floyd from New Jersey and is living in his grandparents' home. He is also a 3rd cousin to Janice. (Mike's wife) Vice Mayor Patton went on to state that Ms. Akers indicated she was a friend of Councilman Whitaker's wife and saw her often at School House Fabrics. Councilman Whitaker asked that his vote for Ms. Akers be changed to "aye". The motion was not amended, because a new roll call was not taken on the motion.

TOWN MANAGER'S REPORT-

Town Manager Cox shared that public works staff member Jeff Hale has been with the Town for 10 years on October 31st. She passed around a card for council members to sign and stated that she would present him with the card and gift certificate next week.

Town Manager Cox shared a thank you note that was received from Mrs. Terry Smusz. It thanked council members for their proclamation and Councilman Whitaker for attending her recognition event.

Town Manager Cox stated that a vacation of lot line will be required for the Town Hall and Town Office building renovations project. The lot line between the buildings will need to be removed since the buildings will be joined. She has received a cost from Mr. LJ Quesenberry's office to complete the work, a high estimate of \$2,000.00.

Vice Mayor Patton makes a motion, seconded by Councilman Whitaker and passed; to authorize Town Manager Cox up to \$2,000.00 for survey fees with L.J. Quesenberry's survey company.

Councilman Turner-aye
Councilman Whitaker-aye
Councilman Bond-aye
Vice Mayor Patton-aye
Mayor Griffin-aye

Town Manager Cox reminded council members that they must renew their Virginia Conflict of Interest and Ethics training by December 31st. Each member must provide a certificate of completion to office staff. Vice Mayor Patton asked that council member be provided the option to complete the training together in Town Hall.

Town Manager is working with the 3rd party contractor, Advanced Power Technologies, on the zoning permit application for the upgrade to Hardee's lighting. She is still waiting on the lighting requirement (lighting span) to verify that it meets the zoning ordinance. Vice Mayor Patton asked if the company provided an explanation as to why they did not get Town approval. The representative for the company noted that he did not realize the town need to see plans and have zoning approval before making any changes to the lighting.

Mayor Griffin noted that Town Clerk Holfield has given her resignation. Mayor Griffin and council members thanked Town Clerk Holfield for her time with the Town of Floyd and congratulated her on new job.

OTHER BUSINESS-

Councilman Whitaker asked that Mrs. Wagner be given more time because she has some other concerns that she would like to discuss with Council. He asked that the agenda be amended to give Mrs. Wagner more time to speak, she has been ill and was unable to come to the meeting when council discussed the right of way issues and he felt that she has something to say concerning the matter. Mayor Griffin voiced hesitation for amending the agenda because Mr. Dylan Locke had also requested to be added to the agenda and Mayor Griffin had told him no as well.

Councilman Whitaker makes a motion, seconded by Councilman Turner and passed; to amend the agenda to allow Ms. Linda Wagner additional time to address council.

Councilman Turner-aye
Councilman Whitaker-aye
Councilman Bond-aye
Vice Mayor Patton-aye
Mayor Griffin-aye

Ms. Linda Wagner stated that an agenda is not a binding agreement, and this should have never gotten to this point. Ms. Wagner stated the last time she was before this board was at the beginning of the year and she read your oath of office and felt that important because it seems like a modicum of professionalism, and it is not even apparent in the Town Council meetings. She continued by talking about the discrimination, harassment, bullying, hatefulness, and name calling that she feels has come for members at the Town Council table, and that is totally unprofessional. She spoke of a letter from Mayor Griffin to Mr. Jesse Miller with the Virginia Department of Transportation (VDOT) regarding the planters (trees) in front of her home. She noted that in her Freedom of Information (FOIA) request, none of the complaint's names could be recalled. Ms. Wagner continued as she looked over her notes, that she had gone into a number areas where she feels you've discriminated, harassed, bullied, and hatefulness.

Mayor Griffin asked if he could interrupt for a minute, Ms. Wagner said he could not. As the Mayor, and leader of the meeting, he has the ability to interrupt.

Mayor Griffin stated that the right of way is not the Town's to enforce, it is the Virginia Department of Transportation (VDOT).

Mrs. Wagner continued by stating that VDOT and the Town of Floyd gave her approval for the current location of her trees, VDOT engineers and the current person in charge at the Town of Floyd during that time. When Mr. Miller come out to her property, he told the person he met with that they did not pose a safety issue, but he was going to turn it over to the Town for a vote. At this point I admonish all of you because none of you did your homework to get all the facts before you voted.

Councilman Turner interjected and stated Town Council did not have to make a motion to allow additional time for you (Mrs. Wagner) to speak. He apologized for interrupting but stated that some of the things being said are ridiculous. He stated that at any time, Mrs. Wagner could have brought documentation to the Town regarding the trees. He noted that VDOT representatives have attended council meetings on several occasions and not one time have they stated they that gave any approval for the trees. Mrs. Wagner stated that council is talking with a different resident engineer. Mayor Griffin stated that any objects within the VDOT right of way are against the law and asked if Mrs. Wagner agreed with that statement. Mrs. Wagner stated that she agreed, if that is the policy that council is going to follow. Mayor

Griffin stated that at the last meeting council supported VDOT unilaterally enforcing their right of way throughout the entire Town of Floyd.

Mrs. Wagner stated she has been before council many times with issues with her property and the number one thing she ends each meeting with is that she is rule follower. She continued pointing out several other properties throughout Town that are out of compliance and the rules are not getting enforced on. She stated that she has brought all of these issues before Town Council before and none have been resolved. Mayor Griffin stated that VDOT enforces the right of way and if they are not enforcing it, it can not be enforced by the Town.

Ms. Wagner asked that if her name is used during a council meeting that member have the facts straight, during the October 7th Town Council meeting Vice Mayor Patton talked about Mrs. Wagner going to Councilman Whitaker to get things done. She stated that Councilman Whitaker and she are friends, God, Family and Faith and they have an allegiance there.

Councilman Turner stated that he has not discriminated against anyone. He stated that he is sorry that Mrs. Wagner feels that way. He noted that people in Floyd have seen him walk in Town for years and he has had to duck sideways from hitting the trees along the sidewalk at Mrs. Wagner's property, and he has not complained about any trees through out Town, including Mrs. Wagner's. He stated that he does not understand why anyone would want to get into politics. Town Clerk Holfield interjected and stated that she never says anything in the Town Council meetings, but the politics of this is ridiculous. She stated that this is why she is leaving and will no longer work in local government and have to deal with these issues on a daily basis.

Councilman Turner stated everyone wants to come to the meeting and complain but everyone has the opportunity to run for office and that is your opportunity to do this. He stated that once you would be sitting in the seat of a council member you would realize that this is difficult to be sitting in because you are trying to do the best that you can do and appease everyone, and it is difficult. No matter which way you turn someone is going to dislike what you say or what you have done.

Vice Mayor Patton stated that when Mrs. Wagner speaks to council, she always speaks with passion, but she may not always have her facts straight. He stated that she mentions in the email that he was looking at, that Town Manager Cox shared with council members, "also in light of the comprehensive discussion of your last meeting about equity, and even one council member stated, "we do not treat the Wagner's any differently". That was in quotes. Mrs. Wagner interjected and stated those were Vice Mayor Patton's exact words. Vice Mayor Patton stated that earlier in the day he listened to the recording with Town Clerk Holfield and those were not his exact words. Mrs. Wagner stated that she will stand corrected. Vice Mayor Patton stated that he said in the meeting as far he knows, Town Council had treated the Wagner's just like they do anyone else in reference to mowing of the grass strips through out

Town. He noted that the motion he made was to authorize VDOT to enforce their protocol and that they are treating everyone the same. That's what all the council members voted on.

Mrs. Wagner stated that she is the number one person to follow the rules as long as she is not the only one that has to follow them.

Town Attorney Shortt stated that he has been served with a lawsuit as the Town Attorney by Mr. David Whitaker. Town Attorney Shortt stated that a closed session is needed under Virginia Code Section 2.2-3711.A.7 to updated council members on the matter. Attorney Shortt asked Councilman Whitaker if he planned to recuse himself from the closed session, recognizing the conflict of interest since he is the plaintiff in the case.

Councilman Whitaker stated that he would recuse himself from the closed session.

CLOSED SESSION-

Councilman Bond makes a motion, seconded by Councilman Whitaker, to go into closed session for discussion of legal suit by Mr. David Whitaker under Section 2.2-3711, Paragraph A. Section 7, Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

Vice Mayor Patton—aye
Councilman Turner—aye
Councilman Whitaker—abstain
Councilman Bond—aye
Mayor Griffin—aye

Councilman Bond makes a motion, seconded by Councilman Whitaker, and unanimously carried; it was resolved to come out of closed session.

Vice Mayor Patton—aye
Councilman Turner—aye
Councilman Whitaker—aye
Councilman Bond—aye
Mayor Griffin—aye

CERTIFICATION RESOLUTION

WHEREAS, this Council convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discussion of pay rates for staff under personnel Section 2.2-3711, Paragraph A. Section 7, Consultation with legal counsel and

briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter. with Section 2.2-3711, Paragraph A.3 of the Virginia Freedom of Information Act;

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies; and (2) 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 to which this certification applies.

Vice Mayor Patton—aye
Councilman Turner—aye
Councilman Whitaker—aye
Councilman Bond—aye
Mayor Griffin—aye

This Certification Resolution was adopted.

Councilman Turner makes a motion, seconded by Vice Mayor Patton and passed; to retain the law firm, Guynn, Waddell, Carroll & Lockaby, P.C. for the current legal suit by Mr. David Whitaker.

Councilman Turner—aye
Councilman Whitaker—abstain
Councilman Bond—aye
Vice Mayor Patton—aye
Mayor Griffin—aye

ADJOURNMENT-

Councilman Bond makes a motion, seconded by Vice Mayor Patton, and unanimously carried, to recess until Tuesday, October 26, 2021, at 5:30 pm at the W. Skip Bishop Town Hall for the sole purpose of closed session.

William R. Griffin, Mayor

Katie Holfield, Town Clerk