

**TOWN OF DAYTON
REGULAR COUNCIL MEETING MINUTES
COUNCIL CHAMBERS, DAYTON TOWN HALL
July 12, 2021**

COUNCIL MEMBERS PRESENT: Mayor Cary Jackson, Dale Rodgers, Bradford Dyjak, Heidi Hoover, Robert Seward, Emily Estes, and Susan Mathias.

ALSO PRESENT: Angela Lawrence, Town Manager; Jordan Bowman, Town Attorney; Justin Trout, Police Chief; Susan Smith, Town Treasurer; and Christa Hall, Clerk of Council and Community Development Coordinator.

CALL TO ORDER: Mayor Jackson called the meeting to order at 6:00 p.m., welcomed guests and reminded everyone that if there is anyone in attendance who wishes to address Council, there is a signup sheet in order to do so and that we will limit each speaker to five minutes each. Town Clerk Hall called the roll. Mayor Jackson led the Invocation and the Pledge of Allegiance.

Mayor Jackson addressed some concerns that had recently come to his attention to include the reasoning associated with the change in meeting times, which took place in July of 2019. He also provided an explanation of the process of how meetings work and how changes and ordinances are made, which begins with Council asking for staff assistance to research topics to bring to Council for their consideration and discussion at Council meetings. Meeting agenda packets are shared with Council and on the Town's website for public viewing almost instantaneously. He further explained that ordinances and resolutions that come before Council at their meetings are not considered adopted and final until the Council has a discussion and a proper motion is made and passed and Councilmembers are encouraged to vote with their hearts and minds and not just with the majority. Finally, Mayor Jackson stated that Council and staff are making every effort to be as transparent as possible to the public.

APPROVAL OF MINUTES: Councilperson Dyjak made a motion to approve the minutes as written for the Regular Council Meeting of June 14, 2021; the motion was seconded by Councilperson Rodgers and approved by a roll call vote of 7 to 0, the voting recorded as follows: RODGERS—AYE; DYJAK—AYE; HOOVER—AYE; SEWARD—AYE; ESTES—AYE; MATHIAS—AYE; JACKSON—AYE.

ACTION ITEM: CONSIDERATION OF THE REVISED FAÇADE GRANT: Mayor Jackson asked Manager Lawrence for a staff report, which she provided. The façade grant is included in this year's budget in the amount of \$10,000. Staff suggested revisions to the program to set clear criteria, to make it competitive, and to ensure public funds are spent in the best manner. Staff further suggests that the funds be administered by the Economic Development Authority (EDA), with the Town Manager and Economic Development Coordinator administering the program. Manager Lawrence also stated that there were unused funds left from the FY21 budget and staff is requesting that Council allow those funds to carry over to the FY22 budget for the same purpose.

Councilperson Dyjak, Chair of the Economic & Community Development Committee, added that these changes were made simply to tweak and streamline the application process. This will clarify the guidelines and make the process easier for both the applicant and the reviewers to know what to expect. He further stated that it makes sense to move the program administration over to the Economic Development Authority, as the Council has vetted all their qualifications and they are capable of handling the process.

Mayor Jackson stated that he would like to extend the review time on the application to 10 days or two weeks to allow more time for the review.

Councilperson Estes asked if the Council was supposed to vote on all monies and stated that she feels that the applications should remain with the Council. She asked about the new policy requiring payback of grant funds if the façade is not maintained for three years and where those funds will go if they are returned. She continued on to state that this was contradicting the earlier text that stated that this money will not have to be repaid.

Town Attorney Jordan Bowman explained that before any Town money is spent, the Council must appropriate the funds, so in this instance, the Council would appropriate the funds for the façade grant program to the EDA and then the EDA would make the decisions on whom to award grants to. He further explained that typically when a governmental entity is giving money to private businesses, it is generally done through an EDA rather than the governing body making decisions among private business owners. Usually the governing body only awards grants to non-profits.

Manager Lawrence further explained the history of the grant application and how the payback requirement would work, which is to ensure the public that their taxpayer dollars are not being wasted and are being used to enhance the downtown. This is typical grant language.

Councilperson Estes stated that she was not comfortable turning the program over the EDA and prefers that Council maintain the administration of the grant. Councilperson Dyjak stated that if issues arise, Council can reevaluate the process and make changes as required.

Discussion continued to include revisions to the façade grant to extend the promised review time of applications to two weeks, to lower the maximum grant funding allowance to \$2,500, that Council will rollover any monies not spent to the next fiscal year, and a clarification to the possible payback of funds if the façade is not properly maintained.

Councilperson Dyjak made a motion to adopt the revised façade grant application including an amount not greater than \$2,500; that all funds from the existing year not spent will rollover for future façade grants; minor changes, including dates and not major application changes can be made by staff, not with Council approval; and moving the terminology about payback to the bottom of page 14 [of the Agenda packet] and they will be notified within fourteen days and the EDA will now administer the program. The motion was seconded by Councilperson Hoover. Mayor Jackson asked if there was any discussion. As there was no additional discussion, the

motion was approved by a roll call vote of 6 to 1, the voting recorded as follows: RODGERS—AYE; DYJAK—AYE; HOOVER—AYE; SEWARD—AYE; ESTES—NAY; MATHIAS—AYE; JACKSON—AYE.

Councilperson Rodgers made a motion to appropriate \$10,000 to the Economic Development Authority to be spent on façade grants and any monies not spent from the previous fiscal year will be rolled over to the subsequent year. The motion was seconded by Councilperson Dyjak. The motion was approved by a roll call vote of 6 to 1, the voting recorded as follows: RODGERS—AYE; DYJAK—AYE; HOOVER—AYE; SEWARD—AYE; ESTES—NAY; MATHIAS—AYE; JACKSON—AYE.

ACTION ITEM: CONSIDERATION OF THE ORDINANCE REGULATING YARD

SALES: Manager Lawrence was asked to provide a staff report and clarified that the Council will be hearing public comment on this action item prior to voting. Manager Lawrence stated that she has heard comments from festival vendors who felt that if they have to pay for their event spots and adhere to strict rules and regulations as to what items can be sold, then the Town should not allow people in the town to sell things outside of their business or outside of those same parameters. In an effort to address this concern, we approved an itinerant merchant's fee last year. However, this was proven difficult to enforce during the Redbud Festival during which, there were two yard sales set up along the festival route and one of those was selling items that could be described as retail rather than yard sale items. They were selling water that they had purchased and selling items that they had purchased at an auction for resale, which would qualify them as an itinerant merchant. There has been some talk for a while now about having a yard sale ordinance and Manager Lawrence had understood that the Town had such an ordinance in place some time ago, but was advised by the Attorney that this was not the case. This matter was discussed as part of the Town Manager report at the June Council meeting and staff was going to investigate an ordinance to prohibit sales outside of the festivals. We looked at other ordinances in small towns in the area and added the item to include only the portion of College Street and Main Street along the festival route for Redbud, Dayton Days and the Muddler, which we can remove. At this point, Manager Lawrence turned discussion over to the Attorney for further clarification. Attorney Bowman advised that he assisted Town staff in drafting the yard sale ordinance and they looked at many other jurisdictions and that there are several jurisdictions that have similar rules in place. He stated that the limitation of two yard sales per year was something that was added in not knowing what Council might want and offered as something for Council to discuss and consider. Attorney Bowman stated that he did not mean to generate the opposition that this has generated and offered his apologies to the public and to Council. We didn't know what the exact limitation would be and will leave that to Council for their decision.

Mayor Jackson asked for a motion to adopt the Ordinance Regulating Yard Sales as presented. Councilperson Estes replied so moved. The motion was seconded by Councilperson Mathias. Mayor Jackson asked if there was any discussion amongst Council.

Councilperson Estes brought up her concerns that the ordinance pertained to more than just the festivals, which is what she thought was the intention. She stated that the Town is not an HOA and feels this ordinance is too restrictive. She stated that she has heard from several residents who are upset about the yard sale restrictions and should be allowed to be heard. She further stated that imposing rules like these make people not want to live here and makes them want to leave. After a very heated and expressive statement against the ordinance, Councilperson Estes exited from the meeting at 6:46 p.m. and returned at 6:50 p.m.

Mayor Jackson stated that the residents need to allow the Council to have a discussion on the matter and allow them to do their jobs and then the residents will be allowed to speak. He further stated that he and the Council agree that the limitation of two yard sales per year is not enough and that it needs to be more, six seems to be a good number. Councilperson Estes stated that due to COVID, there should not be any limitations to yard sales and people need to be allowed to make money how they can and that it is a free enterprise. Councilperson Dyjak stated that the Council asked for a recommendation on a specific issue pertaining to festival days and not to limit the number of yard sales that people may have. He stated that the ordinance needs to be tailored to fit Dayton and focus on the one issue of festival days and take out the other items that are not necessary. He stated that the Council is here to represent their neighbors as best as they can and that this is to be considered a dialogue, not a dictatorship.

Mayor Jackson said that when the Council asks staff to research something and bring information back to them, many times staff will bring back more than they have requested to allow for Council to review and consider. Subsequently, when items go to legal counsel, they are thorough in what they do and send back for Council's consideration. Councilperson Rodgers stated that when he and the rest of the Council read the proposed ordinance, they had the same reaction as the residents did. He stated that he hopes that everyone can understand that they are also citizens of Dayton, not dictators. He further stated that the legal counsel drafted this ordinance based on what other localities are using. Councilperson Mathias asked to be recognized to speak. She stated that she too is still learning the process of how things work. She continued by saying that she works in Human Resources and often times her bosses will come to her and ask for information. She strives to give them more information than they requested and they will give responses back to her with their revisions and she compared that process to this one. She finished by stating that she applauds staff and legal counsel for doing their due diligence by researching and going above and beyond to provide information to the Council. She stated that her opinion on the subject is that if there has not been a problem in the past with habitual yard sales then she doesn't feel that we need an ordinance to address that matter.

Councilperson Estes stated that maybe we should look at grandfathering in the residents who have always held yard sales during event days. Manager Lawrence stated that her understanding was that a yard sale ordinance would be difficult to enforce if it only applied to event days and asked the attorney if they could only adopt that portion of the draft ordinance. Attorney Bowman stated that each item within the ordinance can function independently and they can remove and adopt whatever policy that Council desires. Councilperson Seward added that he feels that the ordinance should only apply to the two festival days and that perhaps we should

look at imposing a citizen/resident vendor fee if they wish to set up on one of those days and not impose limits on what they can sell. He feels that the Council can come to a mutually agreeable compromise that can be a win for everyone.

At this point, Mayor Jackson opened up the floor to hear citizen comments. He stated that there were ten people signed up to speak and each person would be allowed five minutes to speak. Many comments were made along with suggestions and requests on how the ordinance should be revised. It was also requested that in the future, draft documents be more clearly identified to increase the public's understanding. Manager Lawrence suggested that Council direct staff to come back with a new policy, but asked for clarification and direction on what they want. Mayor Jackson asked that it be sent to the Economic and Community Development Committee for discussion and for that committee to bring it back to Council for further discussion. Mayor Jackson stated that he appreciates everyone's attendance and participation at the meeting.

After a lengthy discussion and after hearing several citizens speak against the ordinance, the motion was denied by a roll call vote of 0 to 7, the voting recorded as follows: RODGERS—NAY; DYJAK—NAY; HOOVER—NAY; SEWARD—NAY; ESTES—NAY; MATHIAS—NAY; JACKSON—NAY.

ACTION ITEM: CONSIDERATION OF RESOLUTION TO ADOPT THE CENTRAL SHENANDOAH HAZARD MITIGATION PLAN 2020 UPDATE: Mayor Jackson asked Manager Lawrence for a staff report. Manager Lawrence stated that this was a lengthy update process by the CSPDC. The last update was done in 2013. It is required by all localities to be adopted. Councilperson Mathias made a motion to adopt the Resolution adopting the Central Shenandoah Hazard Mitigation Plan 2020 Update as presented. The motion was seconded by Councilperson Seward. Mayor Jackson asked if there was any discussion. After hearing none, the motion was approved by a roll call vote of 7 to 0, the voting recorded as follows: RODGERS—AYE; DYJAK—AYE; HOOVER—AYE; SEWARD—AYE; ESTES—AYE; MATHIAS—AYE; JACKSON—AYE. The resolution reads as follows:

**RESOLUTION OF TOWN COUNCIL OF THE TOWN OF DAYTON, VIRGINIA
Adoption of the Central Shenandoah Hazard Mitigation Plan 2020 Update**

WHEREAS, the Dayton Town Council recognizes the threat that natural and man-made hazards pose to people within the Town of Dayton, and

WHEREAS, the Disaster Mitigation Act of 2000, as amended, requires that local governments develop and adopt natural hazard mitigation plans in order to receive certain federal assistance and update these plans; and

WHEREAS, the Central Shenandoah Hazard Mitigation Plan (CSHMP) identifies mitigation strategies to reduce or eliminate long-term risk to people and property in our community and in the Central Shenandoah Region from the impacts of future hazards and disasters; and

WHEREAS, the CSHMP Steering Committee representing the 21 local jurisdictions of the Central Shenandoah Planning District convened in order to review the original Plan and study the Region's risks from and vulnerability to natural hazards, and to make recommendations on mitigating the effects of such hazards on the Region; and

WHEREAS, the Steering Committee was provided with a staff support by the Central Shenandoah Planning District Commission; and

WHEREAS, the efforts of the Steering Committee, the staff of the Central Shenandoah Planning District Commission, as well as members of the public, private, and nonprofit sectors, have resulted in the development of the 2020 Update of the Central Shenandoah Hazard Mitigation Plan for the Region; and

WHEREAS, the Central Shenandoah Regional Wildfire Community Protection Plan (CSRWPP) is an annex to the Central Shenandoah Hazard Mitigation Plan and is included in this resolution,

NOW THEREFORE, BE IT RESOLVED by the Dayton Town Council that the Central Shenandoah Hazard Mitigation Plan 2020 Update is hereby approved and adopted for the Town of Dayton.

ACTION ITEM: CONSIDERATION OF PERSONNEL POLICY REVISIONS: Mayor Jackson asked Manager Lawrence for a staff report, which she provided. She stated that the Personnel Committee met and asked for any personnel policies that needed revision. There were two items in need of revision and clarification involving the inclement weather policy and the PTO policy. Councilperson Estes made a motion to approve the personnel policies as revised. The motion was seconded by Councilperson Hoover. Mayor Jackson asked if there was any discussion. After hearing none, the motion was approved by a roll call vote of 7 to 0, the voting recorded as follows: RODGERS—AYE; DYJAK—AYE; HOOVER—AYE; SEWARD—AYE; ESTES—AYE; MATHIAS—AYE; JACKSON—AYE. The changes are as follows:

Section IV. I. Inclement Weather

Essential personnel are paid an ~~additional~~ regular rate for the hours worked during such closing provided they are in occupational classes eligible for overtime pay.

Section VII. B. 1. PTO

Employees not actively working or employees on leave, and who have exhausted all accrued leave for a calendar year, shall not be eligible to accrue PTO time. During their first year of employment, ~~Employees~~ may take up to 40 hours of PTO time off during a calendar year in advance of the accrual for emergency and medical purposes only; however, if employment is terminated or the employee resigns, unless due to reduction of work force, or a work-related injury, or illness, before the time is accrued the balance of leave time will be deducted from the final pay check or the employee will be required to reimburse the Town for the unearned time used.

MANAGER'S REPORT

Town Manager Angela Lawrence provided a written report, which is attached. Manager Lawrence added that the Town received a bill for the Mill Street Project, and it is over budget by about \$80,000 and that is not the final bill. She has requested a meeting ASAP with A & J

Development and the engineer. She further explained that some of the additions were due to mistakes made by others and she wants to ensure that the Town is not paying for those.

TREASURER'S REPORT

Treasurer Susan Smith provided a written report and added that Manager Lawrence had an item for consideration.

CONSIDERATION OF FY21 BUDGET ADJUSTMENT: Manager Lawrence reviewed necessary adjustments to the FY21 Budget Amendment that were needed and asked that Council approve the adjustment. She stated that this is necessary to correct some errors, but does not change the bottom line. Councilperson Estes made a motion to approve the budget adjustment as presented (and attached) and to approve the use of unspent contingency funds up to \$50,000 for the expenses related to water and sewer portions of the Mill Street project. The motion was seconded by Councilperson Mathias. The motion was approved by a roll call vote of 7 to 0, the voting recorded as follows: RODGERS—AYE; DYJAK—AYE; HOOVER—AYE; SEWARD—AYE; MATHIAS—AYE; ESTES—AYE; JACKSON—AYE.

POLICE REPORT

Chief Justin Trout provided a written report. Councilperson Estes stated that she was glad that Chief Trout received his grant. Councilperson Dyjak offered a plug for the August 3rd National Night Out event that will be held at Sunset Park. Chief Trout stated that they have sent out letters requesting sponsorships as this is an expensive event. He added that they are working on lots of fun events to encourage neighbors to come out and gather.

PUBLIC WORKS REPORT

Public Works Supervisor Adam Meek provided a written report. Manager Lawrence updated that the VDOT portion of the Mill Street project is complete.

WATER DEPARTMENT REPORT

Water Plant Operator Jennifer Reppe provided a written report. Manager Lawrence added that Jennifer is very dedicated and has had to come in at least six times recently in the middle of the night to deal with issues.

COMMUNITY DEVELOPMENT REPORT

Community Development Coordinator Christa Hall provided a written report and added that we have received a request from Shentel (glofiber) to bring their fiber optic services into Town. They have agreed to the terms of the proposed Franchise Agreement and would like for Council to consider it at a public hearing at the August 9th Council Meeting if it is the pleasure of the Council. Council authorized staff to set the matter for public hearing in August.

ECONOMIC DEVELOPMENT REPORT

Economic Development Coordinator Meggie Roche provided a written report. Manager Lawrence added that the first concert in the park was held and went well. Kelly May Brown performed, concessions were sold by the Dayton Ruritans and the concert was attended by approximately 130 people. Muddler registrations are low and staff is working to increase those.

TOWN ATTORNEY REPORT

No report.

ECONOMIC & COMMUNITY DEVELOPMENT COMMITTEE REPORT

Councilperson Dyjak stated that the committee met to discuss revisions to the Façade Grant, recap the Redbud Festival, and discuss the wayfinding signage program. He stated that it is great to have community engagement and involvement with the sign program. He also stated that the Business Community Conversation series will resume with an in-person meeting on August 12 at 6:15 p.m. in the Council Chambers. He highlighted that they are looking at possible grant opportunities through the Virginia statewide business district resurgence grant program and will keep Council posted as to that progress. In conclusion, he gave a shout out to the many Dayton businesses that were nominated for the Best of the Valley and we are eagerly awaiting the final results. Dayton was well represented and he referred to us as “Small, but Mighty!”

FINANCE COMMITTEE REPORT

Councilperson Rodgers stated that there was no report.

INFRASTRUCTURE COMMITTEE REPORT

Councilperson Dyjak stated that there was no report.

PARKS, RECREATION & BEAUTIFICATION COMMITTEE REPORT

Councilperson Rodgers reported that there was no report but added that it was good to see everyone at the concert and noted the large number of canine attendees.

PERSONNEL COMMITTEE REPORT

Councilperson Hoover stated that the committee met to discuss the Personnel Policy changes and the evaluation process for the Town Manager.

POLICE COMMITTEE REPORT

Councilperson Hoover stated that they met and she wanted to extend a shout out to Chief Trout as he has been awarded with leadership in a number of committees within the Virginia Association of Chiefs of Police. He is an instructor for active shooter training for all the officers in the area and we appreciate all that he does for our Town and also statewide. All of the Dayton officers now have new body worn cameras and new TASERs and have been fully trained.

MAYOR AND COUNCIL REPORT

No report.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

PUBLIC COMMENT

None.

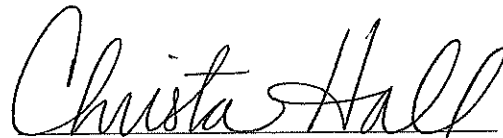
ADJOURNMENT

With there being no further business to come before the Council, Councilperson Seward made a motion to adjourn, Councilperson Estes seconded the motion; motion passed unanimously with a 7-0 vote.

The meeting adjourned at 8:18 p.m.

Respectfully Submitted,


Mayor, Cary Jackson


Clerk of Council, Christa Hall

ATTACHMENT TO DTC 7.12.21 REGULAR MEETING MINUTES—FY2020-2021 Budget Adjustment

	Adopted FY21	Revised Amendment	Adjustment
Revenue			
General Fund			
General Property Tax	118,500	61,162	61,162
Other Local Tax	390,000	395,406	395,406
Other Local Revenues	247,992	272,048	272,048
Federal/State Funding	226,884	970,910	970,910
Subtotal General Fund before transfer	983,376	1,699,526	1,699,526
Transfer from Water & Sewer Fund*	1,012,464		319,406
Transfer from Reserves**		319,406	
Subtotal General Fund after transfer	1,995,840	2,018,932	2,018,932
Capital Fund – General			
Transfer from Water & Sewer Fund*	185,580	425,000	425,000
Transfer from Reserves**	1,600,000		
Water & Sewer Fund	3,722,000	3,850,000	3,850,000
Capital Fund – Water & Sewer			
Transfer from Water & Sewer Fund			
Transfer from Reserves**			
Total Revenues	7,503,420	6,293,932	6,293,932
Expenditures			
General Fund			
General Government	625,490	625,490	625,490
Public Safety	686,997	686,997	686,997
Public Works	397,237	397,237	397,237
Parks, Recreation & Cultural	147,721	65,000	65,000
Community & Economic Dev	138,395	95,000	95,000
Debt Service	0	0	
Sub-total	1,995,840	1,869,724	1,869,724
Capital Fund – General			
Water & Sewer Fund	185,580	425,000	425,000
Water & Sewer Fund			
Water & Sewer Operations	2,523,956	2,300,000	2,412,594
Capital Fund – Water & Sewer	1,600,000	0	
Total Expenditures before transfers	6,305,736	4,594,724	4,707,318
Transfer to Capital-General*	185,580	425,000	425,000
Transfer to Capital – Water & Sewer		0	
Transfer to General Fund*	1,012,464	319,406	319,406
Transfer to Reserves		954,802	842,208
Total Expenditures after transfers	7,503,420	6,293,932	6,293,932

* Note: Transfers from Water & Sewer Fund to General & Capital Funds are from operating surplus. They are listed as expense in each fund.

**Note: Reflects transfer from reserve (retained earnings) for budgeting purposes. It is not new revenue.

ATTACHMENT TO DTC 7.12.21 REGULAR MEETING MINUTES

Town Manager

Staff Report

June 2021

Personnel

- 1) Staff participated in a cookout & team building exercise. It was well received.

Public Works, Roads, Facilities

1) **Water Plant Upgrade:**

- a) The engineer has scheduled the surveyor and geotech crew; however, the plat and survey have not been received and therefore no negotiation for additional property has occurred yet. Field work should be complete in the coming week. The engineer has received preliminary drawings from the equipment manufacturer this week and is refining the modified project design. The manufacturer is working on their proposal scope and cost.
- b) The engineer has a few options on handling the regular backwash stream. He will meet with the Water Plant Operator on July 8.

2) **Mill Street Project:**

- a) VDOT conducted the final inspection of the project and asked the contractor to make revisions to several of the handicapped ramps. Those are currently being done.
- b) The contractor is replacing some water line fittings and will patch the pavement.
- c) The contractor is completing work on a fence and sidewalk at Mill & College Streets.
- d) I have not received the final bill to date. I will provide an update at the meeting.

American Rescue Plan Act (ARPA)

- a) We received our first payment by the end of last fiscal year.
- b) We expect to receive the same amount by the end of this fiscal year, but do not have confirmation of a date.

Other

- a) The A/V equipment install has been delayed again as the sound board is back-ordered.
- b) The public works crew has new logo shirts – gray polo and orange reflective that will be worn daily.
- c) HRSSA has hired a new Executive Director. Greg Thomasson is scheduled to begin July 1.

Items for Discussion and/or consideration

Respectfully submitted,

Angela A. Lawrence