

**MINUTES
PURCELLVILLE TOWN COUNCIL
TUESDAY, DECEMBER 13, 2022, 7:00 PM
TOWN HALL COUNCIL CHAMBERS**

Meeting video can be found at the following link: <https://purcellvilleva.new.swagit.com/videos/191227>

COUNCIL MEMBERS PRESENT: Mayor Kwasi Fraser, Tip Stinnette, Joel Grewe (*late arrival 7:06pm*), Mary Jane Williams (*remote due to medical and signed off at 8:06pm*), Erin Rayner, Stan Milan (*late arrival remotely 7:36pm*), Vice Mayor Christopher Bertaut

STAFF PRESENT: Town Manager David Mekarski, Town Attorney Sally Hankins, Director of Engineering & Development Dale Lehnig, Director of Administration Hooper McCann, Chief of Police Cindy McAlister, Director of Public Works Jason Didawick, Division Manager Parks and Recreation Amie Ware, Director of Finance Elizabeth Krens, Assistant Director of Finance Connie LeMarr, Accounting Manager Paula Hicks, GIS & Special Projects Coordinator, Andrea Broshkevitch, Asset Management Coordinator Joshua Goff, Director of Planning & Economic Development Don Dooley, Town Clerk/Executive Assistant Diana Hays, Deputy Town Clerk Kimberly Bandy

CALL TO ORDER:

Mayor Fraser called the meeting to order at 7:00 PM. The Pledge of Allegiance followed.

AGENDA AMENDMENTS:

None

CONSENT AGENDA:

- a. Approval of Meeting Minutes - October 01, 2022 Special
- b. Approval of Meeting Minutes - October 25, 2022 Work Session
- c. Approval of Meeting Minutes - November 15, 2022 Special Meeting @ 6:00pm
- d. Approval of Meeting Minutes - November 15, 2022 Special Meeting @ 7:00pm
- e. Approval of Meeting Minutes - November 30, 2022 Special Meeting
- f. Easements for Capital Projects - 12th Street Improvements
- g. Appointment of Member to the Tree and Environment Sustainability Committee

Council member Stinnette made a motion that the Town Council approve the Consent Agenda items 6a.-6g. as presented in the December 13, 2022 Town Council Meeting agenda packet.

(Carried: 5-0-2 absent, Grewe: Absent, Bertaut: Aye, Stinnette: Aye, Williams: Aye, Milan: Absent, Rayner: Aye, Fraser: Aye)

RECOGNITIONS:

Oak Winters, Purcellville Arts Council

Mayor Fraser recognized Oak Winters for his service to the Town of Purcellville.

Town Council

Mayor Fraser recognized Council member Stinnette and Council member Grewe.

Mayor Kwasi Fraser

Vice Mayor Bertaut and Council recognized the Mayor for his 8 plus years of service.

PRESENTATION:

a. FY 2022 Annual Financial Report Presentation

Megan Argenbright/Brown Edwards gave the report that can be found on record at the Clerk's office.

b. Loudoun County Mitigative Modifications to the Fields Farm Park Complex

David Mekarski gave the report by listing conditions for the parking lot and modifications for the athletic fields. Council discussed the information. Council member Stinnette reviewed the discussed timeline with completing process between Town Council and Planning Commission with the County by giving the Planning Commission until January 19, 2023 for a decision to be sent to Town Council by January 24, 2023, giving three weeks for proper advertisement for a public hearing to be held at a special meeting on February 21, 2023, and include an action item to vote at the February 28, 2023 Town Council regular meeting.

Council member Stinnette made a motion that the Town Council remand the staff proposed and County coordinated conditions for the permits associated with the Fields Farm to the Planning Commission, he further moved that Town Council direct the Planning Commission to complete its analysis by January 19, 2023 and provide that analysis in the staff package for the January 24, 2023 Town Council Meeting with the intent to hold a public hearing on February 21, 2023 and render a Town Council determination no later than February 28, 2023.

(Carried: 4-2-1 absent, Grewe: Nay, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Nay, Fraser: Aye)

PUBLIC HEARINGS:

a. Lumos/Segra Third Amendment to License Agreement (Sally Hankins)

Mayor Fraser opened the public hearing at 9:00pm. Sally Hankins, Town Attorney, gave the report. There were no citizen/business comments. The public hearing was closed at 9:06pm.

b. Field's Farm Park Applications for Rezoning, Special Use Permits and Commission Permit *(No public hearing was held.)*

CITIZEN COMMENTS:

Phil Baldwin had sent an email regarding permission to use the Tabernacle facility and use non-adhesive tape to provide space for indoor Pickle Ball. Council member Stinnette shared that Mr. Baldwin would be discussing his ideas with Amie Ware, Division Manager Parks and Recreation.

Adam Stevenson, 240 E. Loudoun Valley Drive, commented on the environmental assessment for the Planned 7/690 Interchange.

Shawn Bobbin-nonresident of the town, 36841 Alder School Road, shared not being in favour of the Woodgrove cellular tower and it only being 500 feet from his home. Council member Stinnette shared that he would be sending Mr. Bobbin a response to his setback concern.

MAYOR AND COUNCIL COMMENTS:

Council member Grewe thanked staff for all their hard work and the opportunity to serve the Town of Purcellville.

Council member Rayner thanked staff for the successful holiday weekend and thanked Council Members Stinnette and Grewe for all their assistance and service to the town.

Council member Stinnette thanked the Council and the community allowing him the privilege to serve the town. He wished good luck to Council member Milan and new council. He referred to an email sent to staff in the past regarding his thoughts.

Council member Williams comments were shared by Council member Rayner, that she thanked Council Member Stinnette and Grewe for their guidance and support.

Council member Milan thanked departing Council members and the Mayor for getting him involved in local politics.

Vice Mayor Bertaut thanked the departing Council members and Mayor Fraser.

Mayor Fraser thanked the community for the opportunity to serve and thanked his fellow Council members.

ACTION ITEM(S):

a. Proposed Public Safety and Cellular Communications Tower at Woodgrove High School (David Mekarski)

David Mekarski summarized the staff report and mentioned that there were several public safety officials in Chambers to make comments. Matt Penning, Director of Development/Milestone Towers, gave the presentation. *(On record at the Clerk's office)* Josh Clemens, Public Safety Director Loudoun County, continued with the presentation.

The following individuals made comment in favour of the cell tower:

Mike Lamb, Battalion Chief – Loudoun County Fire & Rescue

Craig Schleiden, Major - Loudoun County Sheriff's Dept

Bryan Scallon, Manager Communications Systems - Loudoun County Department of Information Technology

Kevin Johnson, Loudoun County Office of Emergency Management

Brook Hess, Loudoun County Department of Information Technology

Ernie Brown, Director - Loudoun County Department of General Services

Brian Stocks, Director, Division of Management and Coordination – Loudoun County Public Schools *(Josh Clemens read a statement from Mr. Stocks)*

Council member Stinnette made the following motion:

Consistent with the Memorandum of Understanding (MOU) directed by the Town Council and negotiated by the Vice Mayor Christopher Bertaut and Town Manager David Mekarski, Loudoun County Board Supervisor Chair Phyllis Randall and County Administrator Tim Hemstreet, the Town of Purcellville has complied with the first Town requirement specified in the MOU that the town hold a public information meeting on the proposed request to construct the proposed public safety tower located at Woodgrove High School. This public information meeting was advertised and noticed by direct mail to surrounding residents and advertised on the town's webpage and by press release.

This meeting was held on December 6, 2022 where the public record was established by seven representatives of Loudoun County and the Town of Purcellville's public safety community, clearly establishing that the erection of this tower is a public necessity to ensure effective communication between citizens and public safety officials; specifically radio communications with the Loudoun County Sheriff's Office and the Loudoun County Fire and Rescue, the Office of Emergency Management, Loudoun County Department of Information Technology, Loudoun County Department of General

Services, Purcellville Police Department, Loudoun County Division of Management Coordination, and Loudoun County Public Schools (LCPS). In addition to other public safety benefits, the project will ensure radio communications capability for LCPS school buses serving seven schools that are located within the enhanced area of radio transmission and cellular coverage.

Based on the documented public safety need and the ability of the proposed tower to serve those needs, the Town Council hereby identifies the proposed public safety tower to be a public necessity and a public facility of the Town of Purcellville, and hereby directs the Town Manager to process the plans for the tower promptly, pursuant only to the Town's engineering review, after ensuring that such plans are consistent with the plans presented at the December 13, 2022 Town Council Meeting, up to a height of 165 feet and including the discussed camouflaging of the tower structure.

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Aye, Fraser: Aye)

Mayor Fraser added that this decision was based on the health, safety, and welfare as a priority.

b. Evaluation of the proposed deed of easement and land development application associated with the 7/690 interchange in accordance with the Town of Purcellville Zoning Ordinance, pending Catoctin Meadows Homeowners Association (CMHOA) verified receipt of the same documents directly from the County, and Town Manager's response to the County Administrator's letter dated November 28, 2022 in accordance with Town Council's directive

Council member Stinnette before going forward with his report he gave credit to Ron Rise, Sr. and his diligence, review, and voice on this matter as a citizen and HOA member. Council member Stinnette disclosed he is a member of the Catoctin Meadows HOA as President and would be speaking from his Council status. Council member Stinnette requested the decision flow chart to be displayed to review and summarized the staff report. Council member Stinnette did recommend to Planning Commission hold a public information session on this subject because of the complexity, give Planning Commission an opportunity to review and evaluate, hold a Town Council public hearing and then have a Town Council vote.

David Mekarski shared information from a meeting with the County. He also shared that Kimley Horn had done a review and had a recommendation for the flood plain issue and the effect to surrounding lot owners/homeowners and that Nancy Boyd, Loudoun County representative would be sharing documents and information on the 7/690 Interchange plans with the HOA.

Sally Hankins, Town Attorney, gave a statement that the HOA's objective was shared at the meeting with the County representatives and she shared that the county said that it could agree to review the assumptions that go into their floodplain modeling. A representative from Kimley Horn, who has run some numbers on the floodplain modeling, and does believe that he has some indication that the lots would be benefited by the offered revised numbers. Ms. Hankins also shared that the County also said they'd be willing to plant trees within the project boundaries, so long as it does not cause arise in the flood waters, and that they would commit that all impacts to streams, and wetlands, on that property would be mitigated, because that's already a requirement they have under their environmental analysis. "For the public record I know Council member Stinnette is aware of this, but under both court options, where condemnation is contemplated if the county proceeded to completion a condemnation process, the road would get approved and built. The stop there, I think is notated more as an anticipation of that, the fact

that the county may not wish to go through the condemnation process, but I just need to make clear that if they did go through the animation process. The road would get built it, because this easement, the floodplain easement, could be extinguished through that process.”

Mayor Fraser and Dale Lehnig, Director of Engineering, Planning & Development discussed the proposed alternate concepts to Town Council in 2013 and the impacts and additionally proposed in 2019. Mayor Fraser recommend the new Town Council go through the process as communicated by Council member Stinnette and requested Vice Mayor Bertaut read the motion.

Vice Mayor Bertaut made the motion Town Council directs Staff and the Planning Commission to begin their evaluation of the proposed deed of easement and land development application associated with the Rt. 7/690 interchange in accordance with the Town Zoning Ordinance, pending CMHOA verified receipt of the same documents directly from the County. Furthermore, Council directs the Town Manager to respond to the County Administrator’s letter dated November 28, 2022 and make the following eight points in the response:

1. On May 14, 1997, the CMHOA entered into an easement agreement with the Town of Purcellville to maintain the floodplain on HOA property adjacent to the proposed 690/7 interchange.
2. The property and easement agreements belong to and are owned by the CMHOA membership, and the agreement is signed by both parties, representing a partnership between the HOA and Town focused on maintaining the floodplain, stormwater, utilities and community sidewalks and roads and furthermore, any easement within this agreement is not a divestiture of our HOA members property ownership rights.
3. Any proposed modification to these or any one of these easement agreements made with the Town, must include the property owner first.
4. By the owner(s) request, The Town must evaluate easements and associated land development activities to occur (interchange construction) as part of the easement change request process, to ensure compliance with Town of Purcellville municipality ordinances governing such items as open space, floodplain, steep slope, stream and creek buffer requirements as examples.
5. Any proposed County change to a HOA easement agreement with the Town must include both a deed of easement document change proposal and a land development application for consideration by both the HOA and Town.
6. Any change to the deed of easement must be signed in agreement by two thirds of the HOA membership (50 of 74 members) and Town.
7. The HOA must be provisioned independently and directly by the County with any application petition information being considered by the Town.
8. The Town will not hold a public hearing to vacate or modify its easement with the HOA until the HOA is provisioned directly by the County with the same information since the HOA membership must approve by 2/3 of the change.

Council member Milan seconded. There was further Council discussion.

Council member Stinnette made a friendly amendment under #8 “Once the HOA has confirmed receipt of the documents then the Town will proceed with a public information session, followed by a Planning Commission evaluation, and ultimately a Town Council public hearing and advise of the schedule once that is determined.”

Vice Mayor Bertaut accepted the friendly amendment.

Sally Hankins, Town Attorney, recommended proposing goals for decision making with a time line.

Council member Grewe made a friendly amendment to hold the public information meeting within 30 days of the documents received by the HOA.

David Mekarski, Town Manager, confirmed that staff is presently prepared to hold a public information meeting.

Vice Mayor Bertaut acknowledged and accepted second friendly amendment.

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Aye, Fraser: Aye)

Sally Hankins, Town Attorney, suggested to remove *13c. Status Update on the Route 7/690 Interchange Project, HOA Impact and FEMA Floodplain Issue* and consider voting on the Lumos/Segra agreement as proposed in the agenda packet.

c. Lumos/Segra Third Amendment to License Agreement

Council member Grewe made the following motion:

Given that no public comment has been received for this advertised public hearing and that this proposed contract amendment is minor in nature, Council member Grewe moved that Town Council suspend the rule against taking action on a matter on the same night as the public hearing.

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Aye, Fraser: Aye)

Vice Mayor Bertaut moved that Town Council (A) approve the Third Amendment to the License Agreement between the Town and Segra, in general conformance with the December 13, 2022 Staff Report and the Draft Agreement as it was attached to the December 13, 2022 Staff Report, and (B) authorize the Town Attorney and Town Manager to sign the Third Amendment on behalf of the Town.

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Aye, Fraser: Aye)

Mayor Fraser asked because of the late hour was the closed session necessary this evening. Sally Hankins, Town Attorney, recommended having a short 10 minute session.

DISCUSSION/INFORMATIONAL ITEM(S):

a. Low Income Household Water Assistance Program (LIHWAP)

Connie LeMarr gave the report.

Vice Mayor Bertaut moved that Council approve participation in the Low Income Household Water Program (LIHWAP) and authorize the Town Manager to execute the enrollment agreement with the Virginia Social Services Administration and Promise.

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Aye, Fraser: Aye)

b. Floodplain Issue Status replaced Update on the Route 7/690 Interchange Project, HOA Impact and FEMA Floodplain Issue (Dale Lehnig, David Mekarski)

Kimley Horn gave their report on the flood plain for a portion of this discussion item.

c.

Aberdeen House Update-Biohazard Remediation and Emergency Closure

Joshua Goff, Asset Management Coordinator, gave the report. There was a request of a proposed budget amendment in the amount of \$25,000 to be presented at the next meeting. Council member Milan suggested possible future use of the Aberdeen House to generate tourism for the town. Elizabeth Krens, Director of Finance, suggested these funds could possibly come from the interest earned on ARPA money as proposed by Council member Milan, or nutrient credit dollars, or reserved dollars are available to use. Hooper McCann, Director of Administration, suggested staff bring a list of projects for Council to decide on where to use the interest being earned from the ARPA funds.

d. Future Town Council Meetings and Agenda Topics *(no discussion)*

CLOSED MEETING:

MOTION TO GO INTO CLOSED SESSION:

As authorized under Section 2.2.3711.A.8. of the Code of Virginia, Council member Grewe moved that Town Council convene in a closed meeting for consultation with legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel. Specifically, the Town Council will receive legal advice concerning a notice of appeal and appeal application regarding zoning determination 20-01, filed by KMG Hauling, Inc. The following are requested to attend the closed meeting:

1. All Town Council members
2. David Mekarski, Town Manager
3. Sally Hankins, Town Attorney
4. Don Dooley, Director of Planning & Economic Development

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Aye, Fraser: Aye)

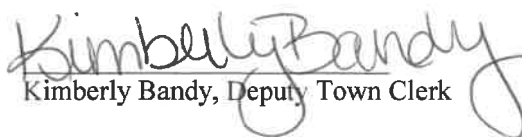
MOTION TO CERTIFY THE CLOSED SESSION:

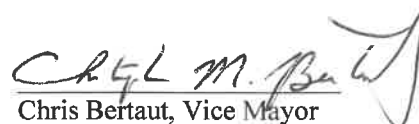
In accordance with Section §2.2-3712 of the Code of Virginia, Council member Grewe made a motion that Town Council certify to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements under Virginia Freedom of Information Act; and (ii) only 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 by the public body.

(Carried: 6-0-1 absent, Grewe: Aye, Bertaut: Aye, Stinnette: Aye, Williams: Absent, Milan: Aye, Rayner: Aye, Fraser: Aye)

ADJOURNMENT:

With no further business, Council member Grewe made a motion to adjourn the meeting at 11:56 PM and carried.


Kimberly Bandy, Deputy Town Clerk


Chris Bertaut, Vice Mayor

