

**DAYTON TOWN COUNCIL
SPECIAL MEETING MINUTES
May 29, 2019**

COUNCIL MEMBERS PRESENT: Mayor Sam Lee, Todd Collier, Jeff Daly, Zachary Fletchall, Cary Jackson, Robert Ohgren, and Tara Worthy

ALSO PRESENT: Joseph S. Paxton, Interim Town Superintendent and Clerk; Jordan Bowman for Town Attorney, Timothy V. Arrington, Treasurer; Daniel Hanlon, Chief of Police; and Justin Trout, Police Lieutenant.

CALL TO ORDER: Mayor Lee called the meeting to order at 6:00 p.m.

CONSIDERATION - AMENDMENT TO FY18-19 BUDGET AND PROPOSED FY 19-20 BUDGET, APPROPRIATION OF FY 2019-20 BUDGET, AND SETTING OF 2019 TAX RATE

Interim Town Superintendent Paxton distributed a copy of the motion necessary for approval of the amendment to the FY 2018-19 Budget, adoption of the FY 2019-20 budget and setting of the real estate tax rate for 2019 to Council for their information. Mr. Paxton then briefly reviewed the Finance Committee's recommendation as follows:

"Finance Committee Report

The Committee met last Thursday to review information from staff for options to fund the part-time middle school officer position and the 6th police officer position.

The Town will see some savings with the retirement of Chief Hanlon and the promotion of Lt. Trout due to differences in time in service. However, when the most recent officer was hired it was more than budgeted since he has 12 years' experience rather than the 5 years budgeted. Hiring someone with this experience was opportunistic for the Town but it only leaves about \$3,000 for additional police salaries.

The Lieutenant's position currently held by Mr. Trout will not be filled until a final decision is made on his promotion. Each month that position is vacant saves \$7,303. If the position is left vacant for at least four months, then the savings is enough for the Town to fund the middle school officer for one more year.

After the public hearing, Town staff discussed with the County and School System transferring the middle school position to the Sheriff's office for the coming year, but that was not determined to be an option for the Town. In fairness to the school system, this is much more complicated than one officer at a school.

There was a general discussion in the Committee about the added value of the 6th officer to police effort in Dayton. There is a concern that with 5 officers and the amount of accumulated leave time that each has that the town could be without police service provided directly by Dayton for 15% to 20% of the 8,760 hours each year. The amount of time will vary based on how many hours the officers take each

year and how many of the hours can be covered by the chief, overtime of existing staff, part-time from other officers, and mutual aid.

Staff looked at options to fund the 6th position with on-going revenues. There are basically two options- restructuring the events and marketing program and significantly reduce recreation programming, or increasing the real estate tax rate from \$.08 to \$.16. Neither of these options are considered viable for the Committee.

Earlier this spring Chief Hanlon made a proposal to increase the rate the Town pays for part time officers to the OT rate the officer earns at their home department. While it certainly increases that part-time cost it should make the Town a more attractive work location for this type of work in our community.

Recommendation

The Committee recommends that the Council take the following actions:

1. Adopt the FY 2019-20 budget as presented.
2. The Committee was not of one mind about the middle school officer position, and provided two options:
 - a. Option A. Use one-time savings by leaving the Lieutenant's position vacant until November 1, 2019 to extend the middle school officer position for one year, allowing for a period of transition. This action will provide funding only for the coming year since it relies almost solely on having a full-time officer positions vacant. If this action is approved, the remaining police staff will supplement the middle school officer, including arrival and departure patrol and walk-through visits during school days the middle school officer is not on-site.
 - b. Option B. Fund the budget as presented without funding for the middle school officer. Under this option, the Committee recommended advising Interim Chief Trout that Council expects officers to increase patrols at the middle school during the school year, including arrival and departure, and several walk-through visits during the day on their regular patrol.
3. With regard to the 6th Officer, the Committee recommended not funding that position for the coming year. However, the Committee saw the need to help the Town be able to attract more part-time officers to fill open shifts; therefore, they recommend increasing the rate paid for part-time officers to the OT rate at their home department effective immediately. The Committee also recommends that the Chief and Treasurer work with the new Superintendent over the coming fiscal year to determine effectiveness of the higher pay rate in helping to cover open shifts for the Town.

The Committee recommends approval of the budget amendment for FY 2019, and setting the tax rate for real estate for 2019 at \$.08 per \$100 of assessed value, the same rate as 2018.”

APPROVAL OF AMENDMENT TO FY 2018-2019 BUDGET, ADOPTION OF THE BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2019 AND ESTABLISH TAX RATE FOR 2019

On motion by Councilman Daly, seconded by Councilman Ohgren; Council approved the revised budget for FY 2018-19 and adopted the budget for FY 2019-2020 commencing July 1, 2019 without funding for the middle school officer. Acting Chief Trout is advised that Council requests town officers to increase patrols at the middle school each day during the year, including arrival and departure, and several walk-through visits during the day on their regular patrol. Council approved increasing the rate paid for part-time officers as recommended and requests that the Chief and Treasurer work with the new Superintendent over the coming fiscal year to determine the effectiveness of this increased rate in helping to provide 24-hour coverage for the Town; carried as follows, and carried by a roll call vote of 4 to 3, voting recorded as follows: LEE – NO; DALY – AYE; COLLIER – NO; FLETCHALL – AYE; JACKSON – NO; OHGREN – AYE; WORTHY – AYE:

	FY 18 <u>Actual</u>	FY 19 <u>Budget</u>	FY 19 <u>Amendment</u>	FY 19 <u>Revised Budget</u>	FY 20 <u>Proposed</u>
Revenues:					
General Fund					
General Property Taxes	\$ 117,467	\$ 120,500	\$ -	\$ 120,500	\$ 118,500
Other Local Taxes	\$ 450,665	\$ 446,300	\$ -	\$ 446,300	\$ 441,100
Other Local Revenue	\$ 311,960	\$ 279,901	\$ -	\$ 279,901	\$ 276,440
Federal/State Funding	\$ 49,135	\$ 245,000	\$ -	\$ 245,000	\$ 70,000
Transfers	\$ 1,202,245	\$ 1,343,885	\$ -	\$ 1,343,885	\$ 973,876
Sub-total - General Fund	\$ 2,131,471	\$ 2,435,586	\$ -	\$ 2,435,586	\$ 1,879,916
Capital Fund	\$ -	\$ 600,197	\$ -	\$ 600,197	\$ 205,000
Water & Sewer Fund	\$ 3,684,902	\$ 4,472,990	\$ -	\$ 4,472,990	\$ 3,701,000
Total Revenues	\$ 5,816,373	\$ 7,508,773	\$ -	\$ 7,508,773	\$ 5,785,916
Expenditures:					
General Fund					
General Government	\$ 788,612	\$ 657,728	\$ 160,000	\$ 817,728	\$ 620,128
Public Safety	\$ 721,982	\$ 728,146	\$ -	\$ 728,146	\$ 557,676
Public Works	\$ 224,177	\$ 727,984	\$ (270,200)	\$ 457,784	\$ 387,807
Parks, Recreation & Cultural	\$ 368,535	\$ 186,026	\$ -	\$ 186,026	\$ 159,768
Community Development	\$ 85,124	\$ 115,602	\$ 110,000	\$ 225,602	\$ 154,538
Debt Service	\$ 26,350	\$ 20,100	\$ 200	\$ 20,300	\$ -
Sub-total - General Fund	\$ 2,214,779	\$ 2,435,586	\$ -	\$ 2,435,586	\$ 1,879,916
Capital Fund	\$ 1,454	\$ 600,197	\$ -	\$ 600,197	\$ 205,000
Water & Sewer Fund	\$ 3,475,682	\$ 4,471,790	\$ -	\$ 4,471,790	\$ 3,701,000
Total Expenditures	\$ 5,691,915	\$ 7,507,573	\$ -	\$ 7,507,573	\$ 5,785,916

APPROPRIATION OF FY 2019-2020 BUDGET

On motion by Councilman Daly, seconded by Councilman Ohgren, and carried by a roll call vote of 4 to 3, voting recorded as follows: LEE – NO; DALY – AYE; COLLIER – NO; FLETCHALL – AYE; JACKSON – NO; OHGREN – AYE; WORTHY – AYE: Council authorized, effective July 1, 2019, the appropriation of \$5,785,916 for the uses and purposes as generally outlined in the FY 2019-2020 budget. The Treasurer is further authorized to transfer from the Water & Sewer Fund to the General and Capital Funds such funds as necessary and within the amounts budget for such purpose.

ESTABLISH TAX RATE FOR CALENDAR YEAR 2019

On motion by Councilman Daly, seconded by Councilman Ohgren; and carried by a roll call vote of 4 to 3, voting recorded as follows: LEE – NO; DALY – AYE; COLLIER – NO; FLETCHALL – AYE; JACKSON – NO; OHGREN – AYE; WORTHY – AYE: ;Council established the following tax rate for calendar year 2019:

	<u>2018</u>	<u>2019</u>
Real Estate	\$ 0.08	\$ 0.08

Property taxes are levied for each one hundred dollars of assessed value as of January 1. Property is assessed at fair market value. Tax rates are effective January 1, 2019.

After the motion and second, Mayor Lee recognized members of Council for discussion. Councilman Jackson noted that he supported the Town using the savings from retirement of Chief Hanlon and the resulting vacancy in the Lieutenant's position until the Chief's position was filled to cover the cost of the officer for the coming year. Councilman Daly noted that he was concerned with handcuffing the new Chief and Superintendent by forcing the position to stay vacant until November 1. He would hope that the position would be filled sooner and the Town would get back to full staff to be able to provide 24-hour service in the Town. Councilman Ohgren responded that in his mind this position was not the Town's responsibility and that extending funding for a year would only delay the decision for a year. Councilman Fletchall concurred in his concern that this Council was being asked to continue a position that should not have been the Town's responsibility in the first place. Councilman Collier noted that while Council has been discussing this for some time, he was concerned with that the community felt it was rushed. Councilwoman Worthy, while expressing her appreciation for the good work that Mr. Conley has provided at the school was also concerned that by funding this position for another year all that Council was doing was delaying the action to another year.

Mayor Lee noted his appreciation for the good discussion on this matter and that it is a difficult decision for Council. He expressed his concern for the timing of the decision and a desire to continue the position for another year to allow the school division the opportunity to make a decision.

After considerable discussion, Councilman Collier called the previous question to end debate. The motion to end debate carried by a roll call vote of 7 to 0, voting recorded as follows: LEE – AYE; DALY – AYE; COLLIER – AYE; FLETCHALL – AYE; JACKSON – AYE; OHGREN – AYE; WORTHY – AYE.

There was a question from those in attendance if there would be a public comment period on the budget. Mr. Paxton advised that the public hearing on the budget was at the last meeting and this matter was now before the Council for action

{Note – return to previous motion on budget for summary of actions taken with respect to the FY2018-2019 budget, FY2019-2020 budget, FY2019-2020 tax rates, and appropriation of funds for FY2019-2020}

CONSIDERATION – EMPLOYMENT AGREEMENT BETWEEN THE TOWN OF DAYTON AND ANGELA A. LAWRENCE FOR TOWN SUPERINTENDENT

Interim Superintendent Paxton presented to Council a copy of the employment agreement between the Town and Angela A. Lawrence to serve as Town Superintendent. Ms. Lawrence currently serves as Town Manager in the Town of Chase City, VA. The contract calls for her to begin work on Monday, July 8, 2019.

On motion by Councilman Collier, seconded by Councilman Ohgren, Council approved the employment agreement between the Town of Dayton and Angela A. Lawrence to serve as Town Superintendent as provided; and carried by a roll call vote of 7 to 0, voting recorded as follows: LEE – AYE; DALY – AYE; COLLIER – AYE; FLETCHALL – AYE; JACKSON – AYE; OHGREN – AYE; WORTHY – AYE.

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and dated this 29th day of May 2019 by and between the Town of Dayton, a municipal corporation of the Commonwealth of Virginia (hereinafter called the “Town”), and Angela A. Lawrence (hereinafter called the “Superintendent”).

WITNESSETH:

WHEREAS, § 15.2-1540 of the Code of Virginia authorizes the Town Council to appoint and supervise a chief administrative officer for the Town of Dayton, to be designated as the Town Superintendent and to serve at the pleasure of the Town Council; and,

WHEREAS, the Town desires to employ the services of Angela A. Lawrence as the Town Superintendent of the Town of Dayton; and,

WHEREAS, it is the further desire of the Town Council to (1) provide inducement for the Superintendent to remain in such employment; (2) make possible full work productivity by assuring the Superintendent’s morale and peace of mind with respect to future security; (3) act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Superintendent; (4) establish an effective mechanism for the regular review of the Superintendent’s performance by the Town Council; and, (4) provide a just means for terminating the Superintendent’s services at such time as she may desire to terminate her employment or be unable fully to discharge her duties due to age or disability, or when the Town may desire to otherwise terminate her employment; and,

WHEREAS, Angela A. Lawrence desires to be employed as the Town Superintendent of Dayton, Virginia;

NOW THEREFORE, in consideration of the mutual covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION I DUTIES

The Town hereby agrees to employ Angela A. Lawrence as the Town Superintendent of the Town of Dayton, Virginia to perform the functions and duties specified in § 15.2-1541 of the Code of Virginia, the Charter, Town Code, and adopted resolution or policy, and to perform such other legally permissible and proper duties and functions as the Town Council shall from time to time assign. The Superintendent shall perform all duties under this Agreement professionally and ethically and to the best of her abilities and skills. The Superintendent shall avoid involvement in any activity which, directly or indirectly, may adversely affect or interfere with the goodwill or operations of the Town

SECTION II TERM

- A. The Superintendent agrees to remain in the exclusive employ of the Town until this Agreement is terminated as provided herein and devote all of her working time, attention, knowledge, and skills solely to the interests of the Town, and the Town shall be entitled to all of the benefits arising from or incident to all work, services, and advice of the Superintendent performed on the Town's time. The term "employed" shall not be construed to preclude volunteer activities, non-profit Board membership, occasional teaching, writing, or consulting service performed on the Superintendent's own time, as long as such activity, teaching, writing, or consulting service does not interfere with the Superintendent's duties for the Town or otherwise violate this Agreement.
- B. As provided in §15.2-1503 of the Code of Virginia, the Superintendent's employment shall be without a definite term and shall continue until terminated as provided in this Agreement.
- C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Town Council to terminate the services of the Town Superintendent at any time, subject only to the provisions set forth in Section III, paragraphs A, B, C, and D of this Agreement.
- D. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Superintendent to resign at any time from her position with the Town, subject only to the provision set forth in Section III, paragraph E, of this Agreement.

SECTION III TERMINATION

- A. Superintendent understands that she serves at the pleasure of Town Council and may be removed with or without cause at any time by a majority vote of Town Council.

- B. In the event Superintendent's employment is terminated by formal action of the Town Council, the Town Council shall pay the Superintendent severance compensation consisting of an amount equal to three (3) months of salary and benefits, (based upon the salary and benefits being earned by Superintendent on the day immediately prior to the date of termination), plus an amount equal to all accrued and unused paid time off (PTO) leave. The initial three-month severance period shall be increased by one month for each year of service, up to a maximum of six (6) months after three years of service. The Town Council shall be authorized to make any deductions required by law from this severance pay.
- C. In the event Town Council at any time reduces the salary or other financial benefits of Superintendent in a greater percentage than an applicable across-the-board reduction for all employees; or in the event Town Council refuses, following written notice, to comply with other provisions benefiting Superintendent herein; or in the event the Superintendent resigns following notification or action, whether formal or informal, by a majority of the members of the Town Council of Supervisors that she should resign, then in any of these events, if the Superintendent chooses to resign, then a resignation under these circumstances shall be deemed to be an "involuntary" resignation and the Town Council shall pay the Superintendent the same severance compensation provided for under Section III, paragraph B as if the Superintendent had been terminated.
- D. If Superintendent's employment is terminated for commission and conviction of an illegal act constituting a misdemeanor involving a breach of public trust, or a felony, or if the employment relationship is terminated by reason of the Superintendent's death or her "voluntary" resignation, the Town Council shall have no obligation to the severance pay required by Section III, paragraph B, except the Town Council shall nevertheless pay the Superintendent for all accrued and unused PTO leave.
- E. In the event the Superintendent voluntarily resigns her position with the Town, then the Superintendent shall give the Town sixty (60) days' notice in advance, and shall forfeit the pay and benefits provided for in Section III, paragraph B. The Town may at any time during this 60 day notice period earlier terminate the Superintendent upon payment of the Superintendent's regular salary for the remaining notice period.

SECTION IV SALARY

The Town agrees to pay the Superintendent for her services for the period of employment beginning July 8, 2019 the rate of \$93,500 annually, payable in installments at the same time as other employees of the Town. Thereafter, pay adjustments shall be governed by the same pay increase conditions as of all other Town employees. The Council may, at its discretion, provide for a salary adjustment or bonus, based on the results of its annual performance review of the Superintendent.

SECTION V HOURS OF WORK

Recognizing that the Superintendent must devote a great deal of time outside regular business hours, the Superintendent will be allowed to take time off in less than 1 day increments without using

PTO leave, as she shall deem appropriate, provided, that as a general matter, the Superintendent shall devote 40 or more hours per week to the fulfillment of her duties hereunder.

Any on-going, formal commitment to teach classes, beyond occasional invitations to be a guest speaker, or to provide outside consulting requires the prior approval of the Town Council.

SECTION VI PERFORMANCE REVIEW

The parties agree the Superintendent shall be evaluated in person by the Town Council on an annual basis with the evaluation process beginning in the month of October of each year, and that the Town Council shall therein review the Superintendent's performance of the preceding year and establish performance goals and objectives for the ensuing year.

SECTION VII LEAVE

The Town agrees that the Superintendent shall initially receive a bank of two (2) weeks of paid time off (PTO) leave, and thereafter shall continue to accrue PTO at the same rate as a Town employee, based on her years of service in the Virginia Retirement System (VRS); the accrual, use and pay-out of PTO leave to be governed by the Town's policy for employees' PTO.

SECTION VIII OTHER TERMS AND CONDITIONS OF EMPLOYMENT

- A. The Town Council shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Superintendent, provided such terms and conditions are not inconsistent or in conflict with the provisions of this Agreement, the Town Code, or any other law.
- B. All provisions of the Town Code and policies and procedures of the Town relating to leave, insurance, retirement and pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended, also shall apply to the Superintendent as they would to other employees of the Town, in addition to the benefits enumerated specifically for the benefit of the Superintendent, except as herein provided.
- C. During the term of this Agreement the Town shall compensate the Superintendent for the use of her personal vehicle for travel for Town business purposes at an annual sum of \$3,000.00. The annual car allowance may be revised from time to time by mutual agreement of the Superintendent and the Town. Said sum is to be payable in equal installments in accordance with the Town's regular payroll cycle. In addition, the Town shall reimburse the Superintendent at the Town's reimbursement rate for official business requiring the use of her personal vehicle to travel more than 50 miles one-way from the Town.
- D. The Town shall pay the Superintendent's professional dues and subscriptions related to membership and certification in professional organizations, her expenses for attending professional meetings, institutes, and/or professional development and leadership programs and will reimburse the Superintendent for out-of-pocket expenses incurred in the performance of her duties as Superintendent in accordance with Town policies and approved

budget.

- E. The Town shall furnish the Superintendent appropriate equipment, such as a cellular telephone, tablet, laptop computer and/or office desk computer for electronic telecommunications, email, word processing and other typical uses of such equipment, for use in her duties. The Town shall also provide for the periodic update and replacement of such equipment. The Superintendent shall present to the Council, for its approval, a description of her equipment needs.
- F. The Superintendent shall maintain her residence within the boundaries of the Town, the City of Harrisonburg (City) or Rockingham County (County), and is granted until January 1, 2020 to become a resident of Dayton, the City, or County. The Town Council may grant an extension to this deadline.
- G. The Town shall pay reasonable expenses, based on the lowest of bids obtained, for the moving of the Superintendent's household goods to her new residence in or near the Town. In the event that the Superintendent voluntarily leaves Town employment within one (1) year of the Town paying this expense, she shall fully reimburse the Town for all such expenses paid by the Town.

SECTION IX Disability

If the Superintendent is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity, or other health reasons for a period of four successive weeks beyond any accrued PTO leave, the Town shall have the option to terminate this Agreement, subject to the severance pay requirements of Section III, paragraph A.

SECTION X GENERAL PROVISIONS

- A. The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Superintendent.
- C. This Agreement shall become effective after approval by the Town Council and upon execution by its Mayor and the Superintendent.
- D. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- E. A modification or waiver of this Agreement, or of any covenant, condition, or provision of it, shall not be valid unless in writing and executed by the parties.
- F. This written Agreement embodies the whole agreement between the parties. There are no

inducements, promises, terms, conditions, or obligations made or entered into by either party other than those contained in this Agreement.

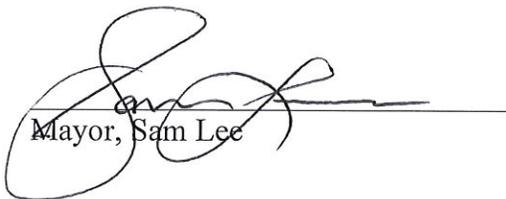
- G. This Agreement shall be governed by the laws of the Commonwealth of Virginia.
- H. The Town and the Superintendent hereby consent to the jurisdiction of the courts of Rockingham County in the Commonwealth of Virginia and of the United States District Court for the Western District of Virginia, Harrisonburg Division, (to the extent such court has subject matter jurisdiction) in connection with any action, suit, or other proceeding in connection with, arising out of, or relating to this Agreement, and agree not to assert in any such action, suit, or proceeding lack of personal jurisdiction, that the action, suit, or proceeding is brought in an inconvenient forum, or that venue of the action, suit, or proceeding is improper.
- I. The Town and the Superintendent each hereby knowingly, voluntarily, and intentionally waive any and all rights that they may have to a trial by jury with respect to any litigation based hereon, or arising out of, under, or in connection with this Agreement, any course of conduct, course of dealing, statements (oral or written), or actions of the Town or the Superintendent. This provision is a material inducement for the Town and the Superintendent to enter into this Agreement.

ADJOURNMENT

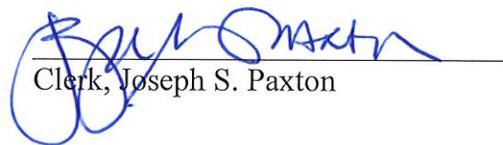
With there being no further business to come before the Council, Councilman Daly made a motion to adjourn, and seconded by Councilman Collier and the motion passed unanimously.

The meeting adjourned at 7:25 p.m.

Respectfully Submitted,



Mayor, Sam Lee



Clerk, Joseph S. Paxton