

**DAYTON TOWN COUNCIL
MEETING MINUTES
August 10, 2020**

COUNCIL MEMBERS PRESENT: Mayor Sam Lee, Jeff Daly, Bradford Dyjak, Cary Jackson, Robert Ohgren, Dale Rodgers and Tara Worthy.

COUNCIL MEMBERS ABSENT: None.

ALSO PRESENT: Angela Lawrence, Town Manager; Jordan Bowman, Town Attorney; Susan Smith, Town Treasurer; Justin Trout, Chief of Police; and Christa Hall, Clerk, Safety & Zoning Official.

CALL TO ORDER: Mayor Lee called the meeting to order at 6:03 p.m. and led the Invocation and the Pledge of Allegiance.

APPROVAL OF MINUTES FOR THE REGULAR MEETING OF JULY 13, 2020:

A motion to approve the minutes from the regular meeting of July 13, 2020 was made by Councilman Dyjak and seconded by Councilman Ohgren and approved by a roll call vote of 7 to 0, the voting recorded as follows: DYJAK – AYE; DALY – AYE; RODGERS – AYE; OHGREN – AYE; WORTHY – AYE; LEE – AYE.

ACTION ITEM: CONSIDERATION OF SHORT-TERM RENTAL ORDINANCE:

Councilman Dyjak made a motion to adopt the short-term rental ordinance as recommended by the Planning Commission. The motion was seconded by Councilman Jackson and approved by a roll call vote of 7 to 0, the voting recorded as follows: WORTHY – AYE; OHGREN – AYE; JACKSON – AYE; RODGERS – AYE; DALY – AYE; DYJAK – AYE; LEE – AYE.

**AN ORDINANCE AMENDING CERTAIN PROVISIONS
OF THE TOWN CODE OF THE TOWN OF DAYTON, VIRGINIA
RELATING TO SHORT-TERM RENTALS**

Whereas, the Town of Dayton, Virginia (the "Town") desires to amend the Town Code so that short-term rentals and bed and breakfasts are permitted, subject to certain regulations, and

Whereas, the Town desires to clarify that owners of short-term rentals and bed and breakfasts are required to obtain a business license or licenses and are subject to the Transient Occupancy Tax imposed by Title 3.2 of the Town Code.

Now, Therefore, the Town Council of the Town of Dayton, Virginia, ordains as follows:

1. Section 9-22 of Title 9 of the Town Code is hereby amended to add the below-listed defined terms:

(8.1) *Bed and Breakfast:* A bed and breakfast is a structure in which guests are provided with sleeping quarters and breakfast for a fee. The proprietor shall reside on the same lot as the bed and breakfast. The bed and breakfast shall employ no more than two persons who do not reside on the same lot as the bed and breakfast. Guests are

provided with morning meals (but not other meals), and may not be lodged for more than 14 consecutive days. A Bed and Breakfast shall not be considered to be a Home Occupation.

- (57.1) *Short-Term Rental*: Any use that falls within the definitions of Short-Term Rental, Owner-Occupied or Short-Term Rental, Non-Owner-Occupied.
- (57.2) *Short-Term Rental, Non-Owner-Occupied*: Any occupancy of a dwelling for a continuous period of less than thirty days, which does not meet the definition of "Short Term-Rental, Owner-Occupied "
- (57.3) *Short-Term Rental, Owner-Occupied*: Any occupancy of a dwelling for a continuous period of less than thirty days, where the owner of the dwelling during such period also resided on the same property.

2. Title 9 of the Town Code is hereby amended to add Chapter 26: Short-Term Rentals and the following Section 9-233:

§ 9-233 Short-Term Rental Use Requirements. The intent of this section is to permit and regulate the operation of Short-Term Rentals, as defined, in appropriate locations throughout the Town in an effort to stimulate economic development and tourism. These supplemental regulations are in addition to requirements under the District Regulations as to whether a Short-Term Rental must be Owner-Occupied. The provisions herein relating to Short-Term rentals shall apply to any dwelling, or portion thereof used as a Short-Term Rental. For the purposes of this Title, Short-Term Rentals shall not be considered a home occupation. Short-Term Rentals shall be allowed only in compliance with the following provisions:

- (a.) The operator of a Short-Term Rental must acquire an annual business license. Each dwelling unit used as a Short-Term Rental shall constitute a separate Definite Place of Business for the purpose of Title 3 of the Town Code, and operators are therefore required to obtain separate business licenses for each such dwelling unit. Failure to obtain a business license may result in revocation of the zoning permit to operate a Short-Term Rental.
 - 1. For Owner-Occupied Short-Term Rentals, proof of residency is required prior to the issuance of a business license, and shall be kept on file with the Town. Proof of residency may be established by the presentation of a valid Virginia Driver's License, valid Virginia Identification Card, or valid Voter Registration Card with a name and address matching the tax records of the proposed Owner-Occupied Short-Term Rental. If the property is owned by a business, additional documentation confirming principal ownership of said business may be required at the discretion of the Town Manager or designee.
- (b.) The operator of a Short-Term Rental, Non-Owner Occupied, shall designate a local property representative. The representative shall be available to respond within one hour to complaints regarding the condition, operation, or conduct of occupants of the short-term rental. The name, address, and telephone contact number of the property owner and the local property representative shall be kept on file with the Town.

- (c.) Off-street parking shall be provided in accordance with Title 9, Chapter 20 of the Town Code, unless a modification is granted by the Zoning Administrator in accordance with the provisions of Title 9, Chapter 3.
 - (d.) No food shall be prepared for or served to guests, so as to distinguish short-term rentals from Bed and Breakfast establishments.
 - (e.) A fire extinguisher shall be provided and visible in all kitchen and cooking areas.
 - (f.) Smoke detectors and carbon monoxide detectors shall be installed in all locations as required by the Uniform Statewide Building Code.
 - (g.) Emergency information must be conspicuously posted inside the property, including contact information for the local property representative.
 - (h.) The operator shall provide an informational packet available to occupants. The information packet shall include, at a minimum, maximum occupancy, location of off-street parking, references to applicable noise and use restrictions, guidelines for trash storage and removal, evacuation routes in case of fire or emergency, and local property representative information.
 - (i.) Prior to the operation of a Short-Term Rental in any new or existing structure, the operator shall apply for and obtain a Zoning Permit. Such application shall be on a form as provided in Title 9, Chapter 3, shall include a certification that the operator has read and will comply with the requirements of this Section 9-233.
 - (j.) Any Short-Term Rental which is allowed only by Special Use Permit shall be conditioned upon compliance with the Town's noise ordinance, Town Code § 1-52 et seq. Such Special Use Permit may be revoked by the Town Council, after notice and a public hearing as provided by law, for noncompliance with the terms or conditions of such Special Use Permit, including without limitation three violations of the noise ordinance within a 12-month period.
3. Chapters 5, 8, 9, 11.1, and 12.1 of Title 9 of the Town Code are amended to add, or amend and restate, the following subsections, as applicable:

Chapter 5 R-1 Residential District
§ 9-24 Uses Permitted as a Matter of Right

- (e.) Short-Term Rental, Owner-Occupied.
- (f.) Short-Term Rental, Non-Owner Occupied.

Chapter 8 B-1 Business District
§ 9-66 Uses Permitted as a Matter of Right

- (s.) Short-Term Rental, Owner-Occupied only if located above a business use in the same Building.
- (t.) Short-Term Rental, Non-Owner Occupied only if located above a business use in the same Building.
- (u.) Bed and Breakfast only if located above a business use in the same Building.

Chapter 9 B-2 Business District

§ 9-79 Uses Permitted as a Matter of Right

(a.) All of the uses permitted as a matter of right or with a special use permit in the B-1 Business District except the uses permitted under §§ 9-67(a), 9-67(a1), 9-67(a2), 9-67(e), 9-67(f), and 9-66(u).

§ 9-80 Uses Permitted with Special Use Permit

(i.) Bed and Breakfast only if located above a business use in the same Building.

Chapter 11.1 A-1 Agricultural District

§ 9-128.2 Uses Permitted as a Matter of Right

(l.) Short-Term Rental, Owner-Occupied
(m.) Short-Term Rental, Non-Owner Occupied
(n.) Bed and Breakfast

Chapter 12.1 A-2 Agricultural District

§ 9-128.16 Uses Permitted as a Matter of Right

(s.) Short-Term Rental, Owner-Occupied
(t.) Short-Term Rental, Non-Owner Occupied
(u.) Bed and Breakfast

4. Chapter 20 of Title 9 of the Town Code is amended to amend and restate the following Section 9-184.2, subsection (m):

§ 9-184.2 Parking Classification; Spaces Required

(m.) Hotel Classification. The Hotel Classification includes hotels, motels, boarding houses, and bed and breakfasts. Any restaurant affiliated with a hotel, motel, boarding house, or bed and breakfast that is open to patrons other than overnight guests shall be treated separately under paragraph (e) of this section. Uses within this classification must have two parking spaces, plus one space per guest room.

4.5. Except as expressly provided herein, all other provisions of the Town Code shall continue in full force and effect.

At the conclusion of the roll call vote, Manager Lawrence stated that the short-term rental permit application form that has been submitted for Council perusal will have a few changes and asked that Council notify her of any concerns regarding the application.

ACTION ITEM: APPOINTMENTS TO ECONOMIC DEVELOPMENT AUTHORITY:

Manager Lawrence stated that Cary Jackson's appointment to the Economic Development Authority (EDA) expired on July 10, 2020, and that Cheryl Lyon has resigned from the EDA effective August 1, 2020. A vacant seat remains as a result of Zachary Fletchall's death as well as a vacancy for an additional seat, leaving a total of four vacant seats on the EDA panel. She explained that the EDA can have seven members and may include up to three members of Council but only if there are also at least three members of the public, as Council cannot make up a majority of the EDA panel. Manager Lawrence has provided Council with resumes and letters of interest from two members of the public. She suggested that Cary Jackson be

reappointed for a four year term; that a member of the public is needed to fill the unexpired seat which is due to expire July 10, 2022; and that another Council member might be appointed to take Mr. Fletchall's term which is due to expire in 2023. A closed session to review the resumes with comments was deemed unnecessary.

Councilman Ohgren made a motion to appoint John Hipps for the four-year term due to expire July 10, 2024, and to appoint Gregory Brennan to fill the additional seat for the term to expire July 10, 2022. The motion was seconded by Councilman Daly and approved by a roll call vote of 7 to 0, the voting recorded as follows: RODGERS – AYE; OHGREN – AYE; DYJAK – AYE; WORTHY – AYE; DALY – AYE; JACKSON – AYE; LEE – AYE.

Manager Lawrence and Mayor Lee thanked Cheryl Lyon for her service on the EDA.

A motion to reappoint Councilman Cary Jackson to the EDA for a four-year term to expire July 10, 2024, was made by Councilman Daly, seconded by Councilman Ohgren and approved by a roll call vote of 7 to 0, the voting recorded as follows: DALY – AYE; WORTHY – AYE; OHGREN – AYE; JACKSON – AYE; RODGERS – AYE; DYJAK – AYE; LEE – AYE.

A motion to appoint Councilman Ohgren to the unexpired term to expire July 10, 2023 was made by Councilman Daly, seconded by Councilman Dyjak, and approved by a roll call vote of 7 to 0, the voting recorded as follows: OHGREN – AYE; JACKSON – AYE; DYJAK – AYE; DALY – AYE; WORTHY – AYE; RODGERS – AYE; LEE – AYE.

MANAGER'S REPORT

Manager Angela Lawrence provided a written report, which is attached.

Manager Lawrence provided additional information as to the new Public Works employee, James Painter, who will join the Town AED/CPR training session on August 28th and will start work on August 31, 2020.

Manager Lawrence provided an update on the Mill Street construction project. Bids submitted for the Mill Street construction project were opened on August 3rd and were all substantially higher than anticipated. VDOT has reviewed the bids and determined they are in line with current standards. Manager Lawrence reported that VDOT recommends that we delay approving any contract until we get further into the process with the County and she suggested that when we are ready to move forward, Council can call a Special Meeting for project review.

Manager Lawrence provided an update as to the CARES funding and asked for Council guidance as to how to proceed. Manager Lawrence suggested that the fund cover direct COVID-19 related expenses such as office accommodations, police equipment, additional cleaning, training, remote working and other IT expenses. Discussion ensued regarding using the remainder of funds to cover hazard duty pay for police officers and other Town employees who interact with the public, grants for businesses and Town marketing purposes. Councilman Daly proposed distribution of CARES Act funding in the order of Town business grants, Town employee hazard pay, marketing for Town businesses and finally reimbursing the Town for COVID-related expenses.

ITEMS FOR CONSIDERATION: WATER BILL PENALTIES AND DISCONNECTION

The temporary ordinance that was passed to eliminate water bill penalties and disconnections covered the period for 30 days after the Governor's order expired or is rescinded. After Council discussion, and pursuant to staff's recommendation, it was determined that it was Council's desire to resume imposing penalties on water bills. Councilman Jackson made a motion to draft an ordinance repealing the temporary ordinance suspending utility cutoffs with an effective date of August 31, 2020. The motion was seconded by Councilman Rodgers and approved by a roll call vote of 6 to 1, the voting recorded as follows: JACKSON – AYE; OHGREN – NAY; RODGERS – AYE; DALY – AYE; WORTHY – AYE; DYJAK – AYE; LEE – AYE.

TREASURER'S REPORT

Treasurer Susan Smith provided a written report.

Treasurer Smith advised that the final financial report from June will be available once our audit is complete.

POLICE REPORT

Chief Justin Trout provided a written report.

PUBLIC WORKS REPORT

Russell Bailey provided a written report.

COMMUNITY DEVELOPMENT REPORT

Christa Hall provided a written report.

Christa Hall stated that JMU practicum student Tyler Hall has completed his practicum and has agreed to volunteer with the Town to complete his internship for a minimum of 200 hours.

The official DMV Connect visit scheduled for September was cancelled. However, Town staff is working with them to coordinate a DMV visit on September 1st and 2nd that would primarily be to assist Dayton residents.

Manager Lawrence added that sign violation notices have been served on residents regarding yard signs and on business owners for sidewalk signs that impede foot traffic. During review of the sign ordinance with the Town Attorney, it was discovered that some revisions and clarifications were needed. Staff recommends that the sign ordinance be sent to the Planning Commission for review at their August meeting.

ECONOMIC & COMMUNITY DEVELOPMENT COMMITTEE REPORT

Councilwoman Worthy stated that the committee met and everything that was discussed has been previously addressed except for the Façade Grant. The question that has come up is does

Council wish to put out the Façade Grant applications at the same time as the CARES funding business grant applications. After discussion, it was decided that Council would like to proceed with sending out the Façade Grant applications now and use the same format as the Town used before.

FINANCE COMMITTEE REPORT

No report.

INFASTRUCTURE COMMITTEE REPORT

Councilman Dyjak reported that the Committee had a productive meeting with VDOT regarding paving and future projects. They plan to meet again to continue to work on the CIP.

PARKS, RECREATION & BEAUTIFICATION COMMITTEE REPORT

No report.

PERSONNEL COMMITTEE REPORT

No report.

POLICE COMMITTEE REPORT

Councilman Jackson reported that the Committee met and discussed recruitment, retention and guidelines for disqualifying applicants for employment. He explained that proposed changes in the hiring policy would ensure that the policies could not be altered without going through the Police Committee for recommendations subject to Council approval.

MAYOR AND COUNCIL REPORT

No report.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

PUBLIC COMMENT

None.

CLOSED SESSION

A motion was made to convene into closed session under section 2.2-3711(A)(3) of the Code of Virginia to discuss the disposition of real property, where discussion in an open meeting would adversely affect the negotiating strategy of the public body by Councilman Daly and seconded by Councilman Jackson and carried by a roll call vote of 7 to 0, voting recorded as follows: DALY—AYE; DYJAK—AYE; JACKSON—AYE; OHGREN—AYE; RODGERS—AYE; WORTHY—AYE; LEE—AYE; the Council recessed the meeting at 8:11 p.m.

OPEN SESSION

Return to open session at 8:24 p.m.

CERTIFICATION RESOLUTION

WHEREAS, the Dayton Town Council has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Dayton Town Council that such Closed Meeting was conducted in conformity with Virginia law:

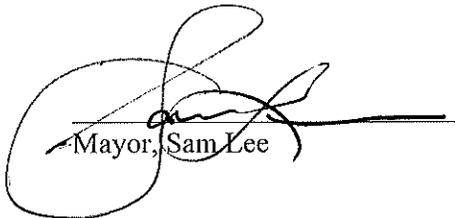
On motion by Councilman Jackson, seconded by Councilman Daly and carried by a roll call vote of 7 to 0, voting recorded as follows: DALY—AYE; DYJAK—AYE; JACKSON—AYE; OHGREN—AYE; RODGERS—AYE; WORTHY—AYE; LEE—AYE; Council returned to regular session and certified that with respect to the just-concluded closed session, and to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements under The 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 Council.

ADJOURNMENT

With there being no further business to come before the Council, Councilman Jackson made a motion to adjourn, Councilman Dyjak seconded the motion; motion passed unanimously.

The meeting adjourned at 8:26 p.m.

Respectfully Submitted,


Mayor, Sam Lee


Clerk, Christa Hall

Town Manager

Staff Report

July 2020

Personnel

1. Staff is updated on a regular basis regarding the COVID-19 situation and workplace safety.
2. Public Works and Administrative staff attended a staff meeting which provided updates on COVID safety and included a VRSA webinar on diversity.
3. Seven applications were received for the Buildings & Grounds Technician position. We interviewed 3 applicants. The new employee will begin work on August 28th.

Public Works, Roads, Facilities

1. **Water Plant Upgrade:**
 - There is no update on the VDH financing program yet. They expect announcements to be made in the next few weeks. I hope to have an update for you at council regarding the likelihood of securing that financing. If it is not likely, we will proceed with the private bank proposals received.
2. **Mill Street Project:**
 - Three bids were submitted and opened on August 3. The bids were all substantially higher than the estimates we were given and the budgeted amount. The estimates came from VDOT in 2016. Much has changed since then. VDOT is currently reviewing the bids to assess their feasibility. If they approve moving forward, we will request that the county and VDOT allow us to use some monies left over from other revenue-sharing projects. That would require approval by the Commonwealth Transportation Board and the Board of Supervisors. I will provide another update at the meeting.
 - We may separate out \$45,000 of the project cost related to our sanitary sewer system and pay for that out of the sewer line repair budget.
3. **Sewer Line Repair & Lining:** The Mason Street section has been completed and all but one section of the Bowman Road/Cooks Creek has been cleared, inspected and repaired. A portion will not be completed until mid-August (and will be paid for out of 2021 funds as budgeted). We will monitor readings from HRSSA to assess the impact of this portion of the project. A visual presentation will be provided at the meeting.
4. **Hydrant Mapping Project:** The project is moving along. A visual presentation will be provided to council at the meeting.

Economic Development

1. **CARES Act:**
 - The county awarded several retail businesses in Dayton a \$5,000 grant. They have opened round 2 of the grant program, easing some of the requirements.
 - The Town received \$84,383.71 to use for qualifying expenses. The CARES Act provides that payments may be used to cover costs that: 1. are necessary expenditures incurred due to

the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); 2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and 3. were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020. Although the Town may not use the funds to recoup lost revenue, we may use them to recoup fees for supplies purchased and used for COVID and to assist businesses who have experienced losses due to COVID-19. The community and economic development committee will review a proposal in greater detail when more information is available.

- There is a possibility that the town will receive additional monies, but the amount is not known at this time. I recommend moving forward with the grant program design and application process, but waiting to amend the budget until we know the exact amount.
- The EDA will need to administer the town grant program. A joint meeting of the council is proposed for Monday, August 24, 2020 at 5:30 p.m.

2. **Sign Grant:** Work continues. The deadline has been extended.

Nuisance Properties

1. The Town extended the deadline for payment and property condition improvements on the Ashby Street property and more progress has been made. I will inspect prior to the council meeting again.
2. The property on Mason Street has been cleared of all debris and the property sold.
3. Other properties have recently been notified of nuisance violations as well.

Budget Process

1. The CARES Act funding exceeds 1% of our budget and therefore will require a budget amendment. Because of the new information regarding a potential change in the CARES Act funding, the finance committee has not met to discuss the budget amendment.

Items for Consideration

1. **Water Bill Penalties & Disconnection:** The temporary ordinance we passed to eliminate water bill penalties and disconnections covered the period for 30 days after the Governor's order expired or is rescinded. Last month, council asked to revisit the issue again. Staff will provide an update at the meeting for your consideration.

Respectfully submitted,
Angela A. Lawrence

**DAYTON TOWN COUNCIL AND PLANNING COMMISSION
JOINT PUBLIC HEARING MINUTES
August 10, 2020**

COUNCIL MEMBERS PRESENT: Mayor Sam Lee, Jeff Daly, Bradford Dyjak, Cary Jackson, Robert Ohgren, Dale Rodgers and Tara Worthy.

COUNCIL MEMBERS ABSENT: None.

PLANNING COMMISSION MEMBERS PRESENT: Chairman Hunter Barnett, Vice-Chair Heidi Hoover, Bradley Randolph, Robert Seward, and Council-Liaison Bradford Dyjak

PLANNING COMMISSION MEMBERS ABSENT: None.

ALSO PRESENT: Angela Lawrence, Town Manager, Christa Hall, Town Clerk and Zoning Official, and Jordan Bowman, Town Attorney.

CALL TO ORDER: Mayor Lee and Planning Commission Chairman Barnett jointly called the Public Hearing to order at 5:30 p.m. and welcomed guests.

Mayor Lee announced that the purpose of the Joint Public Hearing was to hear public comments regarding a proposed new zoning ordinance allowing short-term rentals in the Town and asked Town Manager, Angela Lawrence to provide a staff report.

Manager Lawrence provided a staff report explaining the need for the proposed ordinance and that this will allow short-term rentals and bed and breakfast establishments to be operated within the Town. After further discussion, Manager Lawrence recommended that the Planning Commission be allowed to meet and provide recommendations to the Town Council.

Mayor Lee asked if there were any public comments at this time.

Dayton resident, Cheryl Lyon, asked for clarification regarding parking requirements and business license requirements for short-term rentals. Manager Lawrence offered a more-detailed explanation, stating that only one business license will be required per dwelling unit, which would be inclusive of multiple sleeping units under the same roof. However, we will ask how many dwelling units they will offer on the permit application.

With no further comments on the proposed short-term rental ordinance, Mayor Lee closed the Public Hearing at 5:47 p.m.

Respectfully Submitted,



Sam Lee, Mayor



Christa Hall, Clerk