

**Irvington Town Council
Regular and Public Meeting
December 11, 2003**

The Irvington Town Council held its regular and public meeting at the Irvington Town Office on December 11, 2003, at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph D. Ransone
Council	Garry Luckham Norman G. Mosher Robert Pittman Kathleen Pollard Ralph D. Ransone
Zoning Administrator	John C. Fitzpatrick
Legal Counsel	Matson C. Terry, II

Absent:

Council	William H. Evans, III
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Visitors:

Mrs. Frances Ramzy
Mr. Jim McCoy
Mr. Sonny Hearold

The Mayor opened the meeting and led the group in prayer. He thanked Mr. Ransone for repairing the Christmas lights.

Public Hearing:

Article 3A-Chesapeake Bay Preservation Overlay District: CBLAD has revised the Chesapeake Bay Act and thus local governments are required to revise their ordinances to conform to the revisions. Mr. Fitzpatrick summarized the revised amendment. The Planning Commission recommended approval of the amended Bay Act. He noted that the County and White Stone had objected to provisions requiring property owners to pump their septic systems every five years. Although it has not been enforced, this requirement is already a part of the Irvington ordinance. CBLAD plans to address enforcement of this requirement within the next few months. The amendment emphasizes prohibition of construction within the 100' buffer. Construction can still be allowed in the landward side of the 50' if approved by the Planning Commission and the parcel was recorded prior to 10/1/89. If pump out is not done every five years, the amendment allows for a procedure consisting of a filter on the outflow valve that is to be certified every five years. If a request is prohibited by the Town Ordinance, then the applicant will go before the Planning Commission before going to the Board of Zoning Appeals. Mr. Terry said that the problem with the pump out requirement has been the cost of enforcing it. Mr. McCoy said that in his opinion the pumpers will bear the burden of record keeping and pass the cost on to the property owner.

Mr. Mosher reminded the Council that the sewage/water systems would alleviate this problem and Mr. Luckham stated that White Stone had budgeted \$5000 for the water/sewage study.

Mr. Mosher moved that the Council approve the amendment to the Bay Act. Garry Luckham seconded the motion. Vote— Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Mr. Fitzpatrick stated that in February or March, he was going to submit the reformatted Ordinance to the Town Council.

Planning Commission Update:

Mr. Pittman reported that the following was discussed at the Planning Commission meeting:

1. The Mitchell/Southworth property was purchased by persons from Maryland.
2. Status of the ditch.
3. Boundary Line Adjustment.

Minutes and Treasurer's Report:

Garry Luckham made a motion to approve the minutes of the November meeting and the November Treasurer's Report. Kathleen Pollard seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Old Business:

Motions Addressing Infrastructure: Mr. Mosher reminded the Council that he had made motions to work on the infrastructure and he wanted to know if anything had been done and if not, why. He wants to know what the Town's options are, when and if the Town is required to act.

1. Water/Sewage: Mr. Terry said that at this time, the Town needs to know what the picture is at the Tides new project. When they see the picture, then they can know where the Town might be able to fit into the picture. The Tides/Golden Eagle's options are to expand their existing water treatment facilities, create a new one at Golden Eagle, or to connect to the Kilmarnock system. A study will be needed to determine the impact on the Carters Creek if they use the existing system at the Lodge and they discharge the projected 100,000 gallons of treated water daily into the Creek.
2. Master Plan for the Commons: A plan for the procedure was developed and presented to the Council. The Mayor said that the group had met. Mr. Ransone said that developing the plan would cost a lot of money. If more land were to be acquired, then the plan would have to be redone. Mr. Mosher said that the Plan was how to engage the community to provide ideas for the Park.
3. Grant Writer: Mr. Mosher said that a motion was made to look into hiring a grant writer. At sometime, money will be allocated. Mr. Mosher said that he is not going to be happy if nothing is done on these items.
4. Architectural Review Board: Mr. Terry stated there was no legal authority to include the whole town in the original historic district as defined in the ordinance when the creation of an architectural review board was provided for in the Ordinance. He said that a public hearing would be needed to expand the area to be covered by an architectural review board. Mr. McCoy said that maybe they can use Urbanna as a model.

New Business:

Mrs. Frances Ramzy: Mrs. Ramzy reported that someone had cut the chain at the entrance to her property and left brush from the hurricane clean-up. She said that also someone had gone into her mother's former home and cut wires to lamps and left a hot wire dangling from the box.

Christmas Activities: The Mayor reminded the Council of Christmas activities: the Christmas Crawl, Boat Parade, and Christmas Eve with Santa Claus Under the Tree.

Museum: Mr. Mosher said that he objected to the appropriation of the budgeted contribution of \$20,000 to the Museum. He said that the Mayor should recuse himself because of a conflict of interest, but Mr. Terry said that the Mayor did not have any pecuniary interest in the Museum; and therefore, there was no conflict of interest. The Mayor is on the Museum Board in an ex officio capacity and has no vote. Mr. Terry said that the Council would need to vote to disburse what's in the budget. Mrs. Pollard said that she had a problem with the letter sent by Museum and signed by the Membership Committee rather than a specific person and she would like to know what is being done to raise money. She agreed with Norm that \$20,000 was a lot of money. Mr. Mosher said that the Council does not know who is in charge, who is going to raise money, and the Council has not been invited to the Museum. Mr. Mosher made a motion to postpone indefinitely giving the money to the Museum. Robert asked Mr. Mosher if he were asking for accountability. The Mayor said that someone could come in January and explain the Museum's finances. Garry would like a tour of the Museum. Norman Mosher said that he was considering making an amendment that no citizen of Irvington be charged an admission. Mr. McCoy said that Hampton Museum had an open house for Hampton residents. Mr. Mosher said that if the Council really believes that there is an implied obligation to give to the Museum, then the Council has been manipulated. Ralph Ransone made a motion to table discussion to January to obtain input from the Museum people and have a tour. Robert Pittman seconded the motion. Vote - Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Executive Session:

Kathleen Pollard made the following motion: I hereby move that the Town Council of the Town of Irvington go into closed or executive session, to consult with legal counsel pertaining to possible extension of Town Boundary Lines and regarding specific legal matters requiring the provision of legal advice, pursuant to the *Code of Virginia*, Section 2.1-371.1A.(6). Ralph D. Ransone seconded the motion. Vote- Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

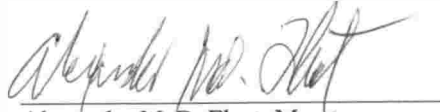
Kathleen made the following motion for certification: I move that there be a roll call or other recorded vote, to be included in the minutes of this meeting, certifying that (1) only public business matters lawfully exempt from public meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed session; and (2) only such public business as was identified in the motion to convene a closed session was heard, discussed or considered. Norman Mosher seconded the motion.

I, Kathleen Pollard, so certify.
I, Ralph D. Ransone, so certify.
I, Garry Luckham, so certify.
I, Norman Mosher, so certify.
I, Robert Pittman, so certify.
I, Alexander Fleet, so certify.

The Town Attorney and the Town Administrator are to explore the ramifications of extending the Town's boundary lines.

Adjournment:

The meeting was adjourned.



Alexander McD. Fleet, Mayor

**Irvington Town Council
Regular and Public Meeting
November 13, 2003**

The Irvington Town Council held its regular and public meeting on November 13, 2003 at the Irvington Town Office at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph D. Ransone
Council	William H. Evans, III Garry J. Luckham Norman G. Mosher Kathleen Pollard
Zoning Administrator	John C. Fitzpatrick

Absent:

Council	Robert Pittman
Legal Counsel	Matson C. Terry, II

Guests:

Mr. Randall Kipp
Mr. Paul Carlson
Ms. Jackie Brown
Hatley and Duncan Bright
Suzanne and Grayson Mattingly

Call to Order:

The Mayor called the meeting to order and led the group in prayer.

Randall Kipp: Administrative Assistant:

Allison Drake, who has chaired the VIA events, has resigned as chairwoman, effective at the end of this year. Mr. Kipp stated that the VIA events will be managed by small groups responsible for each event. However, it is thought that a paid coordinator, who will administer the activities and be responsible for advertising, PSA's, and distribution of flyers is needed. Mr. Kipp said that activities of the VIA have gone beyond the volunteer status. They have asked the IBA to share the cost of the administrator's salary, but the IBA has not committed to it. Randall Kipp has proposed a budget for the administrator. Mr. Kipp was present to ask the Town if it could make a contribution to the salary of the administrator. If that is not possible, the proceeds from the activities of the VIA would be needed to support this person. The Mayor said that he had reviewed their calendar and the Farmers' Market was the big activity and asked how much was there for a person to really do. He also asked who was going to pay taxes, and insurance or would the person be an independent contractor. Mr. Kipp said that VIA would pay the taxes and insurance. Mr. Evans asked if the IBA agrees. The answer was that there was a lot of support. It was important for one person to know all that is going on. The position could be expanded into acting as a visitor's information center. The calendar of events is usually published in September, but it has

not been published for the next year. In response to the Mayor's question of where the administrator would be located, Mr. Kipp said that they wanted to raise the profile of both the VIA and IBA to be more public. The small building used as the one time bank/barbershop was mentioned as a location, but Mrs. Brown said that she had purchased that building when she bought her property. This person would provide continuity for the work of these two organizations. Mr. and Mrs. Raffetto are going to do the Farmers' Market and Hatley Bright said that they had been asked to help with the publicity. Mr. Evans asked what percentage of the salary does the VIA want the Town to provide. Randall Kipp said that the IBA is not committed to the aspect and they are not sure what each is expected to do. The IBA wants to create a WEB site for the Town. Mrs. Bright said that as a business owner, she supports the idea of an administrator. Mr. Mosher said that he recognized that the VIA has given the Town vitality and said that they needed someone to do the grunt work. He wanted to see a job description and thought it would be derelict if the Town does not feed it, whatever the way it is. Mr. Evans said that the Town has other needs such as preparing for possible disasters. He does not see this as a line item in the budget. Mr. Luckham said that according to the budget they had proposed, the cost would be about \$2000 per event. Mrs. Pollard said that the VIA has a good group and when a leader steps aside, someone needs to step forward. Mr. Kipp said that some of the events may need to be cut. He said that the position could be part-time initially and then increased to full time. These events define Irvington as it is today. The Town would be paying only a portion of the cost. Norman Mosher asked if they could come back to the Council with a refined job description. Mr. Kipp thought that this person could also help at the Museum's desk. The Mayor said that he would check with the Attorney to see if the Town could be part of the employment. Mr. Kipp said it was important that this person provide continuity for the VIA activities.

Irvington Crawl: December 13, 2003:

The IBA is planning the Irvington Christmas Crawl: Open House at the businesses, in the afternoon before the Boat Parade. The event would begin at 10:00 A.M. Twenty-one business would participate. (They would like to have 30 participate.) The Urbanna Trolley would do a loop around Irvington to provide rides. They are asking the Town for support and participation. The Churches may provide soup/sandwiches for their own profit. They are asking the homes to be decorated. The Town can contribute money if it would like. The boating activities would be exhibited near the Rappahannock Boat Yard. The costs for the event involve signage and the trolley. Garry Luckham made a motion that the Town contribute \$200.00 to the project. Kathleen Pollard seconded the motion. Vote - Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0.

Disaster: Mr. William Evans:

Mr. Evans said Irvington should have its own emergency plan outside of what the County does in order that Irvington can take care of its own needs. Dr. McGrath, Dr. Lee Williams, Dr. Bob Westbrook, Dr. Mike Molineaux, Grayson Mattingly, and Towles Ryan have agreed to serve on the committee. Chesapeake Academy is willing to serve as a shelter which would provide it a means to have its electricity restored on a first priority basis. A generator to be used for disasters would be needed at the site and it would belong to the Town. He distributed an equipment list and a resource questionnaire. He does not think purchasing the necessary equipment would cost a lot. Norm Mosher said that because fuel was needed for a generator, there should be a hand crank for the pump at Chrismart. Mr. Evans does not want to store fuel. He would like a central bulletin board where information can be posted. Grayson Mattingly would be involved because he has been involved in producing safety and health training videos for the last twenty years. Norman Mosher said they may want to prepay an ice company to deliver ice when it is needed. Council members are welcome to serve on the Committee. Mr. Evans said that he wanted to say that Irvington was prepared for an emergency.

Public Hearing:

Norman Mosher made a motion to go into public hearing. Kathleen Pollard seconded the motion. Vote - Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0.

CUP: Mrs. Susan Munro – Picture Framing Business @ Old Post Office Art Gallery – 301 Steamboat Road: Mrs. Munro is applying for a CUP to operate a picture framing business at the Old Post Office Art Gallery where Mrs. Bayne will continue to operate her art gallery. Mr. Fitzpatrick said that notices had been given, fees have been paid, and there were no objections. The Planning Commission recommended approval of the CUP. Mrs. Munro's days of operation would be Wednesday through Saturday and Sundays in the summer. She does not anticipate any parking problems. Mr. Evans made a motion to come out of the public hearing and Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0. Garry Luckham made a motion to approve the CUP and Norman Mosher seconded the motion. Vote– Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0.

Minutes and Treasurer's Reports:

Kathleen Pollard made a motion to approve the minutes of the October meeting. Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0.

Ralph Ransone made a motion to approve the treasurer's report for September. (The report was discussed, but approval was overlooked at the October meeting.) Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0. Bill Evans made a motion to approve the treasurer's report for October and Ralph Ransone seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0. Garry Luckham asked if Mr. Dawson, who poured the concrete for the sidewalk accepted the payment. Mr. Fitzpatrick said that he was not happy about the payment which was the according to the bid, but less than the final price he submitted.

Zoning Administrator:

Mr. Fitzpatrick reported that he had sent the revised Article 3A -Chesapeake Bay Preservation Area Overlay District – Irvington Town Ordinance to CBLAD for its review. It will be presented to the Planning Commission and Town Council for approval in December. Mr. Westbrook has taken down the White Fences sign that was too large and he will not seek a variance. Mr. Fitzpatrick said that the Planning Commission and Town Council may need to review sign sizes. He thanked the flag committee for its work in displaying the flags for Veteran's Day. He announced that the Mitchell/Southworth Farm had been sold.

Old Business:

Christmas Decorations: Mr. Pruitt is not able to put up the Christmas decoration this year as originally scheduled because of the certificate of insurance requirement by Dominion Power. Ralph Ransone made a motion to accept the bid of \$1200 by One Stop Fulfillment Service. Mr. Evans seconded the bid. Vote - Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0.

New Business:

Boat Parade: The Tides Inn and the Rappahannock Yacht Club are sponsoring the Boat Parade. Norman Mosher made a motion to donate \$500.00 to the project. Garry Luckham seconded the motion. Vote– Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0.

Executive Session:

Kathleen Pollard read the following motion: I hereby move that the Town Council of the Town of Irvington go into closed or executive session, to discuss the probable litigation concerning the ditch between King Carter Drive and Chesapeake Drive, pursuant to the *Code of Virginia*, Section 2.1-3.711A. (7). Norman Mosher seconded the motion. Vote– Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0

Kathleen Pollard moved that there be a roll call or other recorded vote, to be included in the minutes of this meeting, certifying that (1) only public business matters lawfully exempt from public meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed session; and (2) only such public business as was identified in the motion to convene a closed session was heard, discussed or considered.

I, Kathleen Pollard, so certify.

I, Ralph D. Ransone, so certify.

I, William H. Evans, III, so certify.

I, Garry J. Luckham, so certify.

I, Norman G. Mosher, so certify.

Norman Mosher moved that the Council come out of executive session. Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pollard, and Ransone. Nay: 0. It was announced that the matter was discussed in executive session and no official action was taken.

Adjournment:

The meeting was adjourned.


Alexander McD. Fleet, Mayor

Subject: The Ditch

Date: Wed, 12 Nov 2003 18:55:52 -0500

From: "Robert Pittman" <rapittman@kaballero.com>

To: "Town of Irvington" <townofirvington@rivnet.net>

Dear Mayor Fleet and Council Members,

I regret that I can not attend the regular meeting of the Town Council this Thursday because I will be out of town for the weekend. I would like, once again, to share my thoughts on the continuing debacle of the ditch situation. I was told approximately three months ago that the ditch situation was very near a settlement, of which I was glad to hear. As far as I know, no such settlement or agreement has been reached yet. I do not fully understand why or why the ditch work has not been started yet. If my memory serves me, it will be two years next month(Dec.) that Audrey Lowery first notified the town office of her problem with her septic field/sewage system not working properly which coincided with the closing of the dreaded ditch next to the Steamboat Era Museum. I do believe that we recognize now that we, that is Town Council, acted hastily in filling in the ditch. I also believe that we have learned a valuable lesson although at the expense of Audrey and her mother, Mary Alice. I also recognize that we are not the only party in this. I do not believe that there was ill intent of any kind on our part to cause harm to her or anyone else's property by filling in the ditch. I believe the idea was a good one, although now, not one that we used much forethought on. Every time I walk pass Audrey's home I feel that we, as town officials, have failed her and Mary Alice because of the situation that they are in by not being able to properly use their facilities. I know that as a town official, I am partially to blame for her situation because I have stood by and watched a fellow citizen of Irvington be put into a situation that she, nor anyone else, would want. I do not fully understand why this situation has gotten this far with no action. I know that we are now in a lawsuit, but I do believe that it never should have gotten this far. We, that is town officials, should have recognized the wrong doing and done something to rectify the problem much sooner. I sometimes wonder if this had been someone other than Audrey Lowery, or if she was being represented by someone other than Wayne Nunnally, if it would have ever gotten this far without fixing the problem. Mr. Mayor and Council, I urge that we do what we can and what is in our power to do to settle this matter. We must notify those who represent us that we want action taken to arrange for an equitable settlement. We must do what is *right*, not just what is *legal*. I know that this ballooned into quite a circus for all of the county to see and at the risk of more embarrassment we need to acknowledge the wrong done and negotiate a settlement. I am not an attorney, but I am an elected official of this fine town and only want what is best for our citizens and the Town of Irvington. I thank you, in advance, for reading this letter and sharing it with the council. I look forward in seeing you at next month's meeting.

Sincerely and respectfully submitted,

Councilman Robert A Pittman

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November 11, 2003

VIA FACSIMILE AND MAIL

John C. Fitzpatrick
Zoning Administrator
Town of Irvington
235 Steamboat Road
Irvington, VA 22480

Audrey Lowery v. Town of Irvington
Septic Tank Estimates

Dear Jack:

Enclosed is a copy of Judge Taliaferro's letter opinion on the Special Plea and Demurrer that we argued before him on October 24, 2003. Effectively, the court has sustained our Demurrers and/or Special Pleas as to all counts of the plaintiff's Motion for Judgment. Counts I and II (Gross Negligence and Punitive Damages) have been dismissed without offering plaintiff leave to amend. Counts III and IV (Trespass and Condemnation/Eminent Domain) have been dismissed as pled, but the court granted plaintiff leave to amend her pleadings on these two counts. As we discussed previously, it is likely that plaintiff's counsel will be able to draft a trespass and/or inverse condemnation claim that will survive a Demurrer or Special Plea. This is particularly true given the court's finding that the Town is not entitled to sovereign immunity on the trespass claim. Overall, this is a very favorable ruling from Judge Taliaferro, and puts us in a much stronger position in our efforts to settle this case.

It is imperative at this point for us to understand exactly how much replacing Ms. Lowery's septic system will cost and to more fully understand the soil conditions in that area. Having spoken with Gary Grabb about the lifespan of septic systems in the area and the soil conditions on the adjacent museum property, it seems as though providing Ms. Lowery with a brand new system should be of considerable value to her, and really constitutes a betterment. Because this court's ruling puts us in as favorable a negotiating position as possible, we need to nail down the costs involved as soon as possible in order to make a settlement offer while we remain in this position of strength.

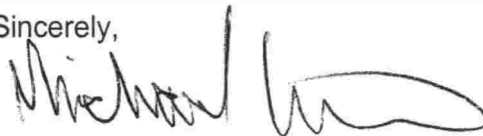
Please contact me as soon as we have received any estimates on the cost of installing a new septic system on the Lowery property, but no later than Wednesday, November 12, so that we may discuss this matter promptly.

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If you have any questions or comments concerning Judge Taliaferro's rulings or our negotiation position, please do not hesitate to contact me at the above-listed number.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Lewis", with a stylized, flowing script.

Michael W. Lewis

MWL/mgm

Enclosure

cc w/enc.:

William J. Kopcsak, Esq.

Mr. Chuck Finley

Your Claim No.: PG0117450

WPRO\185745.2

Commonwealth of Virginia

FIFTEENTH JUDICIAL CIRCUIT

JUDGES

William H. Ledbetter, Jr.
James W. Haley, Jr.
John W. Scott, Jr.
Horace A. Revercomb, III
Ann Hunter Simpson
John Richard Alderman
Harry T. Taliaferro, III

Dixon L. Foster, Retired
Richard H.C. Taylor, Retired
J. Peyton Farmer, Retired
Joseph E. Sprull, Jr., Retired



Harry T. Taliaferro, III
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November 5, 2003

COURTS

Northumberland County
Westmoreland County
Spotsylvania County
King George County
Lancaster County
Caroline County
Richmond County
Stafford County
Hanover County
Essex County
City of Fredericksburg

R. Wayne Nunnally, Esquire
R. Wayne Nunnally, P.C.
121 W. Brambleton Avenue
Norfolk, Virginia 23510

Michael W. Lewis, Esquire
McGuireWoods LLP
9000 World Trade Center
Norfolk, Virginia 23510

Re: Audrey Lowery v. Town of Irvington
Law No. CL03-22
Lancaster County

Dear Counsel:

The defendant Town of Irvington ("The Town") has filed a Demurrer and Special Plea seeking the dismissal of the plaintiff Audrey Lowery's Motion for Judgment. The plaintiff has filed a response to the Demurrer and Special Plea. The matter was argued by counsel before the Circuit Court in Lancaster County on October 24, 2003.

FACTS ALLEGED

The Town on December 21-22, 2001, filled in a drainage ditch located partly on the plaintiff's property and partly on the Town's property. This action altered the run off of water causing water to stand on the plaintiff's property interfering with the operation of her septic drainage field and her use and enjoyment of her property. The Town did not have the plaintiff's permission to go upon her land.

RECEIVED

2003

DEMURRER

The Town has demurred pursuant to Section 8.01-273 to counts one, two and three of the plaintiff's Motion for Judgment. In considering a Demurrer, the Court must decide whether the plaintiff has failed to state a claim upon which relief can be granted. The Court must accept as true every material fact specifically stated or fairly implied in the plaintiff's Motion for Judgment and facts which may be fairly inferred therefrom.

COUNT ONE – GROSS NEGLIGENCE

The Court upon review of Frazier v. City of Norfolk, 234 Va. 388, 362 S.E.2d 688 (1987), (13 year old boy injured when he fell 18 feet from a platform into a pit in a city owned recreational facility where there was no railing around the platform, the city violated its own building code, the city had barriers but did not use them and the city was on notice of a similar fall two years ago by a 6 year old when the barriers were up at the time held not to constitute gross negligence) finds that the filling in of the ditch as factually alleged in the Motion for Judgment does not as a matter of law constitute gross negligence in violation of any duty owed by the Town to Ms. Lowery. Gross negligence is defined in Frazier, 234 Va. 388, 393 as:

That degree of negligence which shows utter disregard of prudence amounting to complete neglect of safety of another; it amounts to absence of slight diligence, or want of even scant care.

As in Frazier, 234 Va. 388, 394, the conduct complained of here:

Did not rise to that degree of egregious conduct which would be classified as heedless, palpable violation of rights showing utter disregard of prudence.

COUNT TWO – PUNITIVE DAMAGES

The Court finds that punitive damages do not lie in an action (1) devoid of reckless, wanton and/or grossly negligent conduct as stated above or (2) in an action as alleged herein against a municipal corporation. Neither party has been able to cite any appellate case law in Virginia under which a municipal corporation has been held liable for punitive damages. We are unable to find any public policy supporting punitive damage awards against a municipal corporation. (Under Section 8.01-195.3 of the Virginia Torts Claim Act the Commonwealth of Virginia is not liable for punitive damages.) We concur that the purpose of punitive damages is

to punish the wrongdoer, as well as to make an example for others. Assessing punitive damages against a municipal corporation only punishes the taxpayers, who are innocent parties.

We find no sufficient reason, therefore, for permitting punitive damages as an element of damage where the Virginia General Assembly has not seen fit to include such as recoverable damages from a municipal corporation.

COUNT FOUR – CONDEMNATION AND EMINENT DOMAIN

We do not believe that Count Four has been properly plead as a cause of action pursuant to which a private citizen may recover from a municipal corporation for “Condemnation and Eminent Domain”.¹

PLEAS IN BAR

The Town seeks to bar the prosecution of Counts One and Three of the plaintiff's Motion for Judgment by special pleas arguing that Count One is barred because the plaintiff failed to provide timely six months notice of her claim under Section 8.01-222 and in Count Three the plaintiff's claim of trespass is barred by the doctrine of sovereign immunity.

The Court has already found above that the facts alleged in Count One do not support an action for gross negligence. The Court, therefore, finds it unnecessary to consider whether any alleged failure to comply with the six months notice prescribed by Section 8.01-222 bars Count One of the Motion for Judgment.

The Town asserts that Count Three of the Motion for Judgment is barred by the doctrine of sovereign immunity because filling in a drainage ditch is a governmental function involving the exercise of discretionary governmental authority which is protected by sovereign immunity as opposed to maintenance of the ditch, which is a proprietary function, that is to say an act which any private individual not protected by sovereign immunity would have done to maintain the ditch, and thus is not protected by sovereign immunity.

In City of Portsmouth v. Weiss, _____ Va. _____, 133 S.E. 781 (1926), Weiss sued Portsmouth for damages which resulted from the loss of a crop of flower bulbs damaged by a flood caused by a dam built by Portsmouth across a canal. The canal was originally constructed to bring water to Portsmouth. Later, Portsmouth built the dam to control water levels not just in the Portsmouth canal, but in two other connecting canals. At the time of the flooding, the dam

¹ This count has not been plead as an inverse condemnation claim. See Section 8.01-187 Code of Virginia.

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was being maintained by the City of Portsmouth because the city had been previously sued as a result of canal overflows.

Although the trial court's judgment in favor of the plaintiff was reversed upon the finding it was error for the trial court to deny the city a Bill of Particulars on damages, the Supreme Court found that no negligence was charged in the plaintiff's declaration and that Weiss's complaint was of a "positive, affirmative wrong done by the city, a trespass on his property, a private nuisance." (133 S.E. at 785) and that the city's act "was not a mere act of negligence, but one of malfeasance – doing an act that was wholly wrongful – resulting in a trespass on the land of the plaintiff and causing him great damage. It was an affirmative wrongful act, not authorized by law, and not the mere negligent performance of a lawful act. The city had no authority to build or maintain a dam that would flood the lands of the plaintiff, and no question of negligence is involved" (133 S.E. at 786). The Supreme Court found that the complaint was grounded upon the city's maintenance of the dam and not the manner in which the canal was dug. The Court, however, found that the General Assembly had authorized construction of the canal, but not the construction or maintenance of the dam. Thus, the city's action was as stated above an affirmative wrongful act, not authorized by law.

Trespass is defined as "an unauthorized entry onto property which results in interference with the property owners possessory interests therein" Cooper v. Horn, 248 Va. 417, 423, _____ S.E.2d _____ (1994). It certainly may be argued that Count Three of the plaintiff's Motion for Judgment has been inartfully drawn. The plaintiff confuses her allegation in Count Three by realleging and reaffirming paragraphs 1 through 10 into Count Three thereby making gross negligence an allegation in the trespass claim. See Weiss above. The plaintiff may plead alternate causes of action for both negligence and trespass Cooper (248 Va. at 423), Code Section 8.01-281(A), Rule 1:4k, and have their case submitted to a jury on those alternate theories, but a litigant cannot allege both in a single count. The plaintiff's pleading does not allege any easements over the ditch only that there is a ditch located in part on each party's property.

Plaintiff's Motion Exhibit A is a letter dated January 3, 2002, to the Town Mayor from Joe Staton, VDOT Resident Engineer. Even though according to the letter VDOT does have a drainage easement from Route 634 down the ditch line and granted the Museum (query: Is the Museum the Town?) a permit to run pipe in the ditch "if certain conditions were met" it may certainly be factually gathered from the VDOT letter that the Town failed to inquire about, or comply with, VDOT conditions which were a prerequisite under the permit to pipe and fill the ditch. This gives rise to a justiciable issue of whether the Town acted without proper authority and thus unlawfully. The plaintiff alleges that the Town unlawfully and without permission came upon the plaintiff's property and caused a drainage ditch to be filled. It is expressly alleged

in Count Three that the Town did so without permission of the plaintiff causing the plaintiff injury. Trespass can be a continuing offense. The Motion for Judgment alleges that the plaintiff is still incurring damages as a result of the plaintiff's trespass. A municipal corporation has no more right to commit an unauthorized or unlawful act than does a private individual. We find that on the plaintiff's claim of damage by trespass the Town does not have sovereign immunity.

CONCLUSION

The Court rules on the defendant's Demurrer and Special Plea as follows:

- (1) The defendant's Demurrer to Count One (Gross Negligence) of the plaintiff's Motion for Judgment is sustained for the reasons stated above.
- (2) The defendant's Demurrer to Count Two (Punitive Damages) of the plaintiff's Motion for Judgment is sustained for the reasons stated above.
- (3) The defendant's Demurrer to Count Four (Condemnation and Eminent Domain) of the plaintiff's Motion for Judgment is sustained for the reasons stated above, however, leave is granted to the plaintiff to amend her claim in Count Four if she should be so advised.
- (4) The defendant's Special Plea of Statutory Bar under Section 8.01-222 to Count One (Gross Negligence) of plaintiff's Motion for Judgment is not decided by the Court because the defendant's Demurrer to Count One has been sustained.
- (5) The defendant's Special Plea of Sovereign Immunity to Count Three (Trespass) of the plaintiff's Motion for Judgment is at this time sustained. The claim in Count Three is made confusing and unclear by paragraph 11 which realleges all prior allegations in the Motion for Judgment including gross negligence and punitive damages. There is no allegation of the Town's failure to ascertain or carry out VDOT conditions under the permit rights granted under the VDOT easement. The Court finds that for a cause of action for trespass to be properly laid, it is the obligation of the plaintiff to clearly state her cause of action in a way that puts the Town on proper notice as to the specifics of the allegation of trespass. The Court grants leave to the plaintiff to file an Amended Motion for Judgment articulating the claim of trespass set forth in Count Three if she should so advised.

November 5, 2003

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Mr. Lewis as the substantially prevailing attorney in this case shall prepare an Order setting forth the rulings contained in this letter. The plaintiff shall have 21 days from the date of entry of such Order to file such amended pleadings as she may deem appropriate and the defendant is granted 21 days from the receipt of such amended pleadings to file such responsive pleadings as it may deem appropriate.

Yours truly,

A handwritten signature in cursive script, reading "Harry T. Taliaferro, III". The signature is written in dark ink and includes a stylized flourish at the end.

Harry T. Taliaferro, III

HTT:dbh

cc: Ms. Constance L. Kennedy, Clerk

McGuireWoods LLP
World Trade Center
101 West Main Street
Suite 9000
Norfolk, VA 23510-1655
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Direct Fax: 757.640.3952

November 11, 2003

VIA FACSIMILE AND MAIL

John C. Fitzpatrick
Zoning Administrator
Town of Irvington
235 Steamboat Road
Irvington, VA 22480

Audrey Lowery v. Town of Irvington
Septic Tank Estimates

Dear Jack:

Enclosed is a copy of Judge Taliaferro's letter opinion on the Special Plea and Demurrer that we argued before him on October 24, 2003. Effectively, the court has sustained our Demurrers and/or Special Pleas as to all counts of the plaintiff's Motion for Judgment. Counts I and II (Gross Negligence and Punitive Damages) have been dismissed without offering plaintiff leave to amend. Counts III and IV (Trespass and Condemnation/Eminent Domain) have been dismissed as pled, but the court granted plaintiff leave to amend her pleadings on these two counts. As we discussed previously, it is likely that plaintiff's counsel will be able to draft a trespass and/or inverse condemnation claim that will survive a Demurrer or Special Plea. This is particularly true given the court's finding that the Town is not entitled to sovereign immunity on the trespass claim. Overall, this is a very favorable ruling from Judge Taliaferro, and puts us in a much stronger position in our efforts to settle this case.

It is imperative at this point for us to understand exactly how much replacing Ms. Lowery's septic system will cost and to more fully understand the soil conditions in that area. Having spoken with Gary Grabb about the lifespan of septic systems in the area and the soil conditions on the adjacent museum property, it seems as though providing Ms. Lowery with a brand new system should be of considerable value to her, and really constitutes a betterment. Because this court's ruling puts us in as favorable a negotiating position as possible, we need to nail down the costs involved as soon as possible in order to make a settlement offer while we remain in this position of strength.

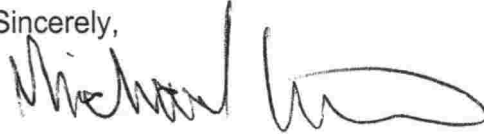
Please contact me as soon as we have received any estimates on the cost of installing a new septic system on the Lowery property, but no later than Wednesday, November 12, so that we may discuss this matter promptly.

November 11, 2003

Page 2

If you have any questions or comments concerning Judge Taliaferro's rulings or our negotiation position, please do not hesitate to contact me at the above-listed number.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Lewis", with a large, sweeping flourish at the end.

Michael W. Lewis

MWL/mgm

Enclosure

cc w/enc.:

William J. Kopcsak, Esq.

Mr. Chuck Finley

Your Claim No.: PG0117450

\\PRO\185745.2

Subject: The Ditch

Date: Wed, 12 Nov 2003 18:55:52 -0500

From: "Robert Pittman" <rapittman@kaballero.com>

To: "Town of Irvington" <townofirvington@rivnet.net>

Dear Mayor Fleet and Council Members,

I regret that I can not attend the regular meeting of the Town Council this Thursday because I will be out of town for the weekend. I would like, once again, to share my thoughts on the continuing debacle of the ditch situation. I was told approximately three months ago that the ditch situation was very near a settlement, of which I was glad to hear. As far as I know, no such settlement or agreement has been reached yet. I do not fully understand why or why the ditch work has not been started yet. If my memory serves me, it will be two years next month(Dec.) that Audrey Lowery first notified the town office of her problem with her septic field/sewage system not working properly which coincided with the closing of the dreaded ditch next to the Steamboat Era Museum. I do believe that we recognize now that we, that is Town Council, acted hastily in filling in the ditch. I also believe that we have learned a valuable lesson although at the expense of Audrey and her mother, Mary Alice. I also recognize that we are not the only party in this. I do not believe that there was ill intent of any kind on our part to cause harm to her or anyone else's property by filling in the ditch. I believe the idea was a good one, although now, not one that we used much forethought on. Every time I walk pass Audrey's home I feel that we, as town officials, have failed her and Mary Alice because of the situation that they are in by not being able to properly use their facilities. I know that as a town official, I am partially to blame for her situation because I have stood by and watched a fellow citizen of Irvington be put into a situation that she, nor anyone else, would want. I do not fully understand why this situation has gotten this far with no action. I know that we are now in a lawsuit, but I do believe that it never should have gotten this far. We, that is town officials, should have recognized the wrong doing and done something to rectify the problem much sooner. I sometimes wonder if this had been someone other than Audrey Lowery, or if she was being represented by someone other than Wayne Nunnally, if it would have ever gotten this far without fixing the problem. Mr. Mayor and Council, I urge that we do what we can and what is in our power to do to settle this matter. We must notify those who represent us that we want action taken to arrange for an equitable settlement. We must do what is *right*, not just what is *legal*. I know that this ballooned into quite a circus for all of the county to see and at the risk of more embarrassment we need to acknowledge the wrong done and negotiate a settlement. I am not an attorney, but I am an elected official of this fine town and only want what is best for our citizens and the Town of Irvington. I thank you, in advance, for reading this letter and sharing it with the council. I look forward in seeing you at next month's meeting.

Sincerely and respectfully submitted,

Councilman Robert A Pittman

Date: November 13, 2003

To: Irvington Town Council

From: Village Improvement Association
Irvington Chamber of Commerce

Proposal of costs for shared Administrative Assistant

Annual Costs

Salary:	\$26,000.00
Rent:	\$ 4,800.00
Phone:	\$ 480.00
Electric:	\$ 720.00

Initial Costs

Computer:	\$800.00
Printer/Fax	\$400.00
Phone:	\$ 75.00
Desk:	\$450.00
Chair:	\$400.00
Light:	\$ 50.00
Misc. Supplies	\$100.00
Software	\$300.00

\$32,000.00

\$2,575.00

DISASTER EQUIPMENT
FOR THE TOWN OF IRVINGTON

I. EMERGENCY EQUIPMENT (for all Disasters)

- a. Portable Generator (at least 1 for Disaster Headquarters)
- b. Water containers
- c. Portable Radios
- d. Extra blankets (military type)
- e. Lighting equipment(5 lg. flashlights-laterns-3(fuel needed)
- f. Propane tanks for heating
- g. Emergency food (as outlined in Disaster manual)
- h. Rope(@ least 50 ft / high quality type
- i. Ax/ power equipment to clear Debra
- j. Power cords (100ft x 4) outdoor grade
- k. Shovels/rakes 6 metal heavy duty type)
- l. Rescue flares (30- 30/min plus type)
- m. Industrial first aide kit (outlined in disaster manual)
- n. Marking panels for Emergency landing zone
- o. Portable signs indicating Emergency condition and Shelter hours

II. FUTURE DISASTER MATERIALS TO BE AUTHORIZED BY TOWN COUNCIL

TOWN OF IRVINGTON
RESOURCE QUESTIONARE

I. HOUSEHOLD SURVIVAL EQUIPMENT

Please check

- A. GENERATOR-----
- B. CHAINSAW-----
- C. LIGHTING EQUIPMENT-----
- D. RADIO EQUIPMENT-----
- E. EXTRA WATER/FOOD RESOURCE-----
- F. EXTRA BLANKETS-----
- G. FIRST AIDE SUPPLIES -----
- H. OTHER PERSONAL DISASTER EQUIPMENT-----

II. PERSONAL TRAINING/ TOWN RESOURCE IN DISASTER PREPARATION

Please check

- A. FIRST AIDE OR MEDICAL TRAINING -----
- B. EXPERIENCED USE OF HEAVY EQUIPMENT-----
- C. RADIO OPERATIONS -----
- D. ENGINEERING BACKGROUND-----
- E. F.OTHER BACKGROUND EXPERIENCE NEEDED DURING DISASTER-----

- 1.
- 2.
- 3.
- 4.

III. NAME AND ADDRESS-----

PHONE NUMBERS

- 1. HOME-----
- 2. BUSINESS-----
- 3. CELL-----
- 4. BEEPER-----
- 5. OTHER-----

THANK YOU

Dominion Resources Services, Inc.
7500 West Broad Street, Richmond, VA 23294



Dominion®

Please ret. 3/11/11 file

23 October, 2003

Mr. Alexander McDonald Fleet
Mayor
Town of Irvington
P.O. Box 174
235 Steamboat Road
Irvington, VA 22480

Dear Mr. Fleet:

I want to take this opportunity to thank you for your assistance and insight during the Hurricane Isabel restoration effort. The damage to Dominion's system and the impact on the lives of our customers was catastrophic, but the communication between your office., and mine proved to be extremely helpful in our efforts to address the concerns of our customer-citizens and to expedite the service restoration process.

It is my hope that our discussions were equally helpful to you in your planning and decision-making activities. We are dedicated to maintaining an open dialogue and welcome any feedback you may wish to offer as a result of your experiences during and after the hurricane.

Again, thank you for being an important part of the communication effort. Please feel free to contact me at (804) 755-5173 whenever I may be of assistance.

Sincerely,

Alexander "Al" Smith, Jr.
External Affairs Manager
State and Local Affairs
Central Region

**Irvington Town Council
Regular and Public Meeting
October 9, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice Mayor	Ralph D. Ransone
Council	William H. Evans, III Garry Luckham Robert Pittman Kathleen Pollard

Zoning Administrator	John C. Fitzpatrick
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Legal Counsel	Matson C. Terry, II
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Absent:

Council	Norman Mosher
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Guest:	Cliff Parker
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Visitor:	Jim McCoy
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The Mayor opened the meeting at 7:30 P.M. and led the group in prayer.

Sydnor: Mr. Cliff Parker:

The Mayor thanked Mr. Cliff Parker for Sydnor's providing a generator for one of their pumps in the Town of Irvington which restored the water service to Irvington on 9/20/03 after Hurricane Isabel. Mr. Parker was invited to the Council Meeting to discuss the possibility of Irvington's purchasing a generator to have in case of future need.

He said that Philadelphia Suburban plans to acquire a number of generators to keep at various locations to be available for use when needed. They would prefer that the Town not acquire its own generator; however, they will provide minimum requirements for a generator if the Town does want to purchase its own generator. Mr. Parker said that it may be a year before Sydnor has its generators in place. Mr. Fitzpatrick should contact Mr. Parker in about six weeks to receive an update on Sydnor's plans.

Mr. Ransone asked about the possibility of the Town's leasing a generator until Sydnor has its new generators. Mr. Parker said that Philadelphia Suburban, the new owner, is in the acquisition stage and will later make capital improvements. They may pursue hooking the White Stone and Irvington systems together to provide greater capacity and this could help the insurance costs through lowering the ISO rating. Mr. Ransone is concerned that trees are in a weakened condition and could fall during bad winter weather. He asked if the Town could lease a generator to have this winter. Mr. Parker said that he will try to get information on leasing a generator to the Zoning Administrator within the week. In reply to a question, he said that boundary line adjustments would not affect the system.

Thomas Property:

Thomas property: Mr. Thomas said that Eleanor Kellum Thomas had filed a partition suit. The Town has an 1/8 interest in two of the four parcels. Mr. Terry said that he was the attorney in 1977, when the agreement between the Town and Mrs. Virginia Thomas was made. The Town paid her \$100. 00 for an 1/8 interest in two parcels and her heirs were to be given the remainder of the amount of the value of the land when the land was partitioned. Both the Town and the Thomases want to purchase the property. He and Mr. Robert Brooks, attorney for the Mrs. Thomas, are trying to reach an agreement for the Town to buy the property either at this time or in the future. He said that legally if no accomodation can be made, then the property would probably be sold at public auction.

Hurricane Isabel:

Mr. Evans said that he had been in contact with Kill Devil, North Carolina, and hopes to have a disaster plan available next month. He would like to have a survey of resources available in the Town in case of disaster.

The Chesapeake Academy headmaster is willing for their gym to be used as a shelter. He will write a letter offering the facility. Ralph Ransone said that based on his experience with the Kilmarnock Fire Dept., if a facility is offered as a shelter and/ or providing meals, there must be control about how it is done.

Minutes:

Mr. Garry Luckham made the motion to approve the minutes with the correction that the reference to September 11, was in 2001 rather than 2003. Robert Pittman seconded the motion. Vote – Yea: Evans, Luckham, Pittman, Pollard, and Ransone. Nay: 0. (Later Mr. Mosher called it to the attention of the Clerk that he was erroneously included in the list of those voting Yea at the meeting. He was absent.) This was corrected in the permanent copy.

Treasurer's Report:

The occupancy tax pay schedule was discussed. The Tides Inn did not pay the occupancy tax for August until October (due September 20) because its computer was down due to Hurricane Isabel. Their comptroller requested approval for the delay and it was approved by the Mayor. Mr. Evans reported that Norman Mosher said that the Council may want to look at the Town's donation to the Museum. The VIA may need to form a committee for each activity. Mr. Luckham said that the VIA is starting to have dialogue with the IBA. The Mayor said that they should consider combining the VIA/IBA.

Mr. Jim McCoy , a new resident in Irvington, stated that there was a FEMA office at Chesapeake Commons until Saturday. He said that SBA was covering damage with low interest loans.

Tennis Courts:

The fence around the tennis courts has been painted. The backboard will be replaced. The Mayor complimented Kathleen Pollard for her efforts.

Ditch:

Mr. Fitzpatrick said that they will wait until the first of the week to see if the Town receives another bid. He and the Mayor have been subpoenaed to give depositions.

Appointment to the Planning Commission:

Mr. Ralph Ransone made a motion to approve the reappointment of Mr. Clark Winner to the Planning Commission. Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Pittman, Pollard, and Ransone. Nay: 0.

Article 3A to the Ordinance: Chesapeake Bay Preservation Act Overlay District.

CBLAD is requiring that its amendments be incorporated into the ordinances of towns and counties. The current regulations generally remain but are to be enforced more rigorously. The exception that have been allowed for a 50 foot buffer for those lots recorded prior to 1989 will continue but mitigation of such property is to be emphasized. The revised Article 3A to the Ordinance concerning the Chesapeake Bay Preservation Act Overlay District will be presented at the November meeting (rescheduled to December). Mr. Fitzpatrick said that the farm land and its activities affecting the Bay have not been addressed.

Planning Commission Update:

Mr. Pittman said that the Planning Commission meeting had consisted of discussion only and no action was taken.

Zoning Administrator:

Mr. Fitzpatrick stated that he had been preparing material for the Ramzy and Westbrook suit.

Old Business:

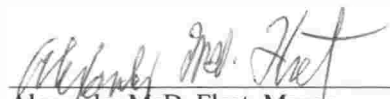
Sidewalk: Mr. Fitzpatrick stated that Northern Neck Texture-Crete had done a great job, but there was an overrun. Bay Window owners had wanted to go beyond the power pole to their driveway and Dexter Rumsey wanted an extension to Chrismart. Additional concrete, in the amount of \$700.00, was required for the extensions. Equipment was stored in Susan Smith's yard and \$400.00 was charged to clean up her premises. The final cost was \$9600 rather than the cost of \$7650 for which the job was contracted. Mr. Fitzpatrick would like to pay the amount as he thought Mr. Dawson did a super job. Mr. Ransone said generally that final costs, if there are overruns, are generally within 10%-15% of the bid. Mr. Evans made a motion to authorize payment of \$8700 to Mr. Dawson and Robert Pittman seconded the motion. Vote – Yea: Evans, Luckham, Pittman, Pollard, and Ransone. Nay: 0.

New Business:

Christmas Lights: Leon Pruitt wants to put up the lights at the same price as last year. Mr. Fitzpatrick will prepare a contract that will state 50% will be paid when he puts up the lights and 50% will be paid when they are taken down for a total of \$1200.00 and the lights should be up by November 16th. Garry Luckham made a motion to accept those terms and Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Pittman, Pollard, and Ransone. Nay: 0. Ralph Ransone asked the Clerk to check with Tommy Turlington to see if the Methodist Church had anything in the box as he had seen him with an electrician at the box.

Adjournment:

The meeting was adjourned.


Alexander McD. Fleet, Mayor

**Irvington Town Council
Regular and Public Meeting
September 11, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office at 7:30 P.M.

Present:

Vice Mayor

Ralph D. Ransone

Council

William H. Evans, III
Garry J. Luckham
Norman G. Mosher
Kathleen F. Pollard

Absent:

Mayor

Alexander McD. Fleet

Council

Robert A. Pittman

Zoning Administrator

John C. Fitzpatrick

Legal Counsel

Matson C. Terry, II

Guests:

Randall Kipp
Frank Tetrick
Dave & Kate Raffetto
Jeff & Annie Arnold
Cathy Morchower

Bob Hardesty
Duncan Bright
Michelle Lybarger
Kathy Arnold

Mr. Ransone called the meeting to order at 7:34 P.M., and asked for a moment of silence in remembrance of those who lost their lives on September 11, 2003.

Master Plan for Park:

Mr. Kipp distributed copies of a proposal for services and fees that would be incurred in developing a master plan for the Commons Area. The proposal was prepared by Mr. Ralph Higgins, who is not interested in the job. Mr. Kipp said there is no current Commons survey available. He said that Bay Design will provide a boundary survey of the four corners for \$2950. Mr. Duncan Bright said that the Irvington Business Association had met and were in support of seeing the Commons developed and supported the plan.

Mr. Mosher requested that consideration of budget matters be postponed until November, as he will be absent at the October meeting. He said that development of the Commons' Master Plan is a participatory and guided process. Kathleen Pollard said that it was a great plan for a start. Mr. Ransone said that they would discuss it in November, and probably some at the October meeting.

Minutes:

Norman Mosher made a motion to approve the minutes and Garry Luckham seconded the motion. Vote: Yea: Evans, Luckham, Mosher, and Pollard. Nay: 0.

Treasurer's Report:

Kathleen Pollard made a motion to approve the treasurer's report. Norman Mosher seconded the motion. Vote - Yea: Evans, Luckham, Mosher, and Pollard. Nay: 0.

Zoning Administrator: Absent.

Legal Counsel: Absent.

Planning Commission Report: Representative absent.

Old Business:

Legal Action on Ditch: No update.

Architectural Review Board: Norman Mosher stated that he had borrowed a book from Randall Kipp that had information on architectural review boards in villages. He said that the Town eventually would need to confront the issue as people would like to confront the notion of development and replacement and the Town might want to exercise general control. Duncan Bright thinks that an architectural review is good for the entire Town to make sure things go along in a "nice way." He thought that the architectural review board referred to in the Town Ordinance was for the entire historical district rather than the original historic district. (The Zoning Administrator has stated that the architectural review board provided for in the Town Ordinance was for the original historic district that centered around the Steamboat Landing area on Steamboat Road, extended to The Lane, and also included the Hope & Glory. It is shown in blue on the zoning map in the Town Office.)

Tennis Courts: Mrs. Pollard talked with Mr. Crecy at the beginning of the month, but she is not certain when he will paint the tennis courts because of delays that may have been caused by the bad weather.

Sidewalks: Work is in progress.

Blinking Lights: Mr. Evans will ask Mr. Fitzpatrick about the blinking light.

New Business:

Sewer: Mr. Bright asked about a potential sewage system. Mr. Ransone said that it was in early talking stage.

Mr. Evans asked Mr. Bright what was being said at the Irvington Business Association meeting:

Architectural Review Board: Mr. Bright said that the IBA thought that the Town needed to do something to provide guidelines so that it would not look like a strip.

Sewer: Mr. Duncan Bright said that there was a move by the Tides Inn to hook up with Hills Quarter for sewage. They were going to do it one way or the other and they thought the Town should be involved.

VIA: Mr. Tetrick distributed handouts outlining the accomplishments of the VIA, number of hours being volunteered, etc. He said that the current chairman has resigned effective at the end of the year. The VIA hopes to have a team responsible for each activity. He said they needed to review the

connection between the Town and the VIA and he asked the Council to appoint several Council members to a work group to work with the VIA and determine what could be done to forge a strong link between the Council and VIA. He said the Commons has been defined by the VIA's activities. He thinks that there should be a financial commitment. Mr. Mosher said that he attended a seminar on volunteerism at Georgetown several years. He volunteered himself and suggested Kathleen Pollard to serve on the work committee with the VIA representatives. Mr. Ransone asked Garry Luckham to serve on the Committee. Mr. Ransone asked if Alison Drake would be at the committee meetings and Mr. Kipp said that she would provide input, but not leadership. Mrs. Morchower said the fact that Ms. Drake is leaving has determined what events are being advertised for next year. Mr. Tetrick said it is important to initiate this without direct input from Alison. Mr. Kipp suggested inviting the Town Council to the next VIA session September 24. Mr. Mosher cannot attend because he will be out of Town. The Work Group will not begin that soon. Mrs. Morchower thinks that the VIA chairmanship has become a full time job.


Mr. Hardesty said that he and his wife have spent time in Camden, Maine, and noted that the front façade of the Rite Aide Drug Store had to conform to the Town's architectural standards. He stated an ordinance on the books is needed to enforce it.

Duncan Bright stated that they had been asked why were there two associations. Answer: one for business and one for pleasure. As time has progressed, it has been realized that they overlap. IBA would be very supportive of the VIA and Mr. Ransone suggested that a representative from the IBA be on the Work Group. Mr. Tetrick said that this speaks to value of a partnership and he thinks that there will be a stronger product in the future. The VIA is open to everyone.

Adjournment:

Garry Luckham made a motion to adjourn the meeting and Kathleen seconded the motion. The meeting is adjourned.


Alexander McD. Fleet, Mayor

 Robert D. Ransone, Vice Mayor

Master Plan - Irvington Commons

Objective:

Conceptual land use planning for Irvington Commons

no	Task	staff allocation			est. fee
		Princ.	L. Arch		
		hrs @ \$125	hrs @ \$57		
1	Base Map Preparation Using a current survey provided by the Town, we will digitize all project area information to create a base map.	2	32		2,342.00
2	Data Gathering We will perform a site analysis for the project area to include existing site plan, topography, elevation, slope, soils, wetlands, and opportunities and constraints. In addition, we will provide a photographic analysis of the project area and its surrounding to illustrate advantages and disadvantages.	8	32		4,432.00
3	Questionnaire We will develop a concise questionnaire to be distributed and collected by the Town in an as yet to be decided manner on what the public sees as the highest and best use for the project area.	2	0		1,054.00
4	Workshop 1 Present land use analysis, slide presentation on neo-traditional planning, and photographic analysis of project area. We will discuss the project mission, goals, objectives and issues. In addition, we will begin conceptual development of project concepts.	12	0		3,108.00
5	Plan Refinements We will refine the concepts developed in Workshop 1 into 2/3 schematic master plans for the project area.	8	16		2,180.00
6	Workshop 2	4	0		768.00

We will meet with the Town and committee to present the refined concepts and select one for implementation. We will discuss additional project elements to include site lighting and furnishings.

7	Deliverables The town will receive one 24 x 36 presentation board of the final master plan and one digital image. Digital images will also be provided of site elements.	1,452.00	4	12
		printing	500	
8	Extra Services All meeting not specifically listed will be billed for on an hourly basis. Construction Administration is not included and will be billed for on an hourly basis unless otherwise agreed upon. See attached General Provisions for additional information.	Total	\$15,836.00	

CLOSURE

This agreement is entered into as of September 2, 2003.

Consultant:

Higgins & Gerstenmaier

Owner/Client:

Irvington Village Improvement Association
COMMENTS FOR
THE IRVINGTON TOWN COUNCIL
September 9, 2003

Good evening. My name is Frank L. Tetrick, III and I reside at 354 King Carter Drive with my wife Mary Ellen. I am speaking tonight on behalf of the Village Improvement Association and I wish to acknowledge additional members that are in attendance tonight.

These individuals are amongst the 42 volunteers that are the force behind many events that help define the unique character of Irvington. Although we know you are familiar with the Association's efforts, I'd like to briefly review these contributions: The Farmers Market on the first Saturday of each month from April to December; the Irvington Turkey Trot; the Commons Concert Series; the July 4th Parade and Concert; the Halloween Costume contest; and the Christmas Boat parade. In addition, our village beautification projects, which include benches with barrel plantings, sidewalk border flowers and landscaping of the triangle, contribute to our town's charm.

While these events or activities are visible and enjoyable to all, you may not realize the extent of volunteer time, and in some instances money, required to produce a successful outcome. In the past year, volunteer time for these events totaled more than 3,100 hours, equaling at least \$24,000 of donated time. We benefited as well from over \$12,800 of direct contributions from several members to support Association operations. Within the same year, the Town Council allocated \$200 to support the efforts of the Association.

Irvington Village Improvement Association
COMMENTS FOR
THE IRVINGTON TOWN COUNCIL
September 9, 2003

Clearly, the Village Improvement Association is a true asset that demonstrates the spirit of volunteerism absent in many small and large communities.

Our Association is now experiencing great change, as we recently accepted the resignation of our leader over the past two years – Allison Drake. Allison steps-down at the end of this calendar year.

While our selfish side would prefer that Allison stay in her current role, we recognize she is making the right decision for herself and for the Association – as it forces each of us to decide if we want the activities and events I have mentioned to continue. We clearly recognize that no one person can reasonably devote the hours required overseeing all Association activities and we hope to establish a team with each person having an area of responsibility. We hope this “share the load” approach will increase our chances of finding someone willing to serve as our new Association President.

Equally important to our internal re-organization is the need for a full review of the relationship that exists between the Village Improvement Association and the Irvington Town Council. We believe now is the time to establish a stronger relationship - that demonstrates a shared commitment to retaining all the events and activities now coordinated by the Association.

Irvington Village Improvement Association
COMMENTS FOR
THE IRVINGTON TOWN COUNCIL
September 9, 2003

There can be no doubt that these events and activities add to the quality of life for Irvington residents, and they contribute to the Town's attractiveness for our visitors. However, without a joint commitment to a successful future by the Town Council and the Association, it is possible that the best days are behind us.

As part of our effort to keep the Association alive and strong, we ask that you designate two or three Council members to an Association & Council Workgroup that will make specific recommendations at a future Council meeting.

Recognizing the connection of the Association's future to this request for Council action, and the approaching end to the calendar year, we recommend that the Workgroup hold a meeting as soon as possible.

We look forward to your supporting this request and hope our joint efforts will help us keep the charm that now defines our community. Thank you.

Date: November 13, 2003

To: Irvington Town Council

From: Village Improvement Association
Irvington Chamber of Commerce

Proposal of costs for shared Administrative Assistant

Annual Costs

Salary:	\$26,000.00
Rent:	\$ 4,800.00
Phone:	\$ 480.00
Electric:	\$ 720.00

Initial Costs

Computer:	\$800.00
Printer/Fax	\$400.00
Phone:	\$ 75.00
Desk:	\$450.00
Chair:	\$400.00
Light:	\$ 50.00
Misc. Supplies	\$100.00
Software	\$300.00

\$32,000.00

\$2,575.00

**Irvington Town Council
Regular and Public Meeting
August 14, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office on August 14, 2003, at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph Ransone
Council	William H. Evans, III Garry J. Luckham Norman Mosher Robert Pittman Kathleen Pollard

Guest:

Bill Kopcsak, Attorney

Visitors:

Paul Carlson
Diane Cook-Tench

The Mayor opened the meeting at 7:34 P.M., and led the group in prayer. He introduced the visitors.

Executive Session:

Robert Pittman made a motion to go into executive session in order that Mr. Kopcsak update the Council on the ditch. Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Norman Mosher made a motion to come out of executive session. William Evans seconded the motion. Vote– Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Kathleen Pollard read the following motion for certification: I move that there be a roll call or other recorded vote, to be included in the minutes of this meeting, certifying that (1) only public business matters lawfully exempt from public meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed session; and (2) only such public business as was identified in the motion to convene a closed session was heard, discussed, or considered.”

Roll Call: I, Kathleen Pollard, so certify.
I, Robert Pittman, so certify.
I Norman Mosher, so certify.
I, Garry Luckham, so certify.
I, William H. Evans, so certify.
I, Ralph D. Ransone, so certify.

The Mayor explained that no official action had taken place in the executive session.

Public Hearing:

CUP: Keith Kelly- Pier Extension – 126 Lancaster Road: Mr. Kelly is applying for a Conditional Use Permit to extend his pier at an angle for 31 feet. He has rebuilt the old 152 foot dock. Mr. Fitzpatrick explained that the notices had been given, neighbors notified, and fees paid. Mr. Kelly has gone through the Corp of Engineers and VMRC process and received their approval. The neighbors did not object. The extension was approved by those members present at the Planning Commission meeting. Mr. Fitzpatrick said that Mr. Kelly is seeking deeper water. Garry Luckham made a motion to approve the pier extension and Mr. Mosher seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Minutes and Treasurer's Report:

Norman Mosher made a motion to approve the minutes of the July 10, 2003 meeting and Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Kathleen Pollard made a motion to approve the treasurer's report for July. Mr. Evans seconded the motion. Vote– Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Zoning Administrator:

Sidewalks: Mr. Fitzpatrick reported that VDOT will not require easements from the property owners adjacent to the proposed new sidewalk. The permit application will be sent to VDOT soon. Mr. Fitzpatrick will notify Sydnor and Verizon.

Planning Commission Report: No additional report.

Old Business: None.

New Business:

Architectural Review Board: Mr. Mosher made a motion to appoint an architectural review board to set standards for the old "historic district" as described and provided for in the Town Ordinance. Mr. Evans seconded the motion. In discussion, Mr. Mosher explained his immediate concern is the fact that Shell Oil Company has purchased the Texaco Company and he is concerned about the appearance of the Shell Signs at Chris Mart. Afterwards he would like consideration be given to extending the jurisdiction for the Board to the rest of the Town. Mr. Fitzpatrick stated that the Architectural Review Board as currently provided for in the Town Ordinance has strong powers. Mr. Mayor asked if the Town Administrator should contact the Town Attorney for clarification of the regulations and rules. Mr. Mosher amended his motion that the Town Attorney report to the Council about the appointment of a review board and the ramifications of such an appointment. William Evans seconded the motion. Vote- Yea: Evans, Luckham, Mosher, Pollard, Pittman, and Ransone. Nay: 0.

Commons Master Plan: Mr. Mosher made a motion to contract a person/firm to design a master plan for the Commons in terms of beautification and landscaping. Mrs. Cook-Tench said that when she was investigating the exterior of the Museum from the exhibit standpoint to determine if they wanted to put something in front of the Museum on the Park land, she heard that there was a plan already on paper. The Mayor appointed the following members to a committee to explore this: Norman Mosher, Kathleen Pollard, Jack Fitzpatrick, and the Mayor. Mr. Mosher withdrew his motion.

Infrastructure Improvements: Mr. Mosher made a motion to authorize the expenditure of funds to hire a consultant to advise the Council about which infrastructure items for which the Town could obtain a grant and write the grant. William Evans seconded the motion. Mr. Fitzpatrick and the Mayor will investigate the feasibility. The Mayor said that he was going to discuss this with someone with grant experience. Vote– Yea: Evans, Mosher, Pollard, Pittman, and Ransone. Nay: 0.

Museum Donation: Mr. Mosher said that in reading Mr. McCann's thank you letter, he was concerned about Mr. McCann's understanding that the \$20,000 donation to the Museum was definite. He wants to go on record that does not want to overlook other infrastructure items in order to give to the Museum. He said that putting an item in the Budget does not obligate the funds without a separate vote of Council. He thought that the council was going to wait (perhaps revisiting contributions in October) until it determined how much money it was going to receive from the occupancy tax before it made a definite commitment. The Mayor said it was his understanding that the assurance (for the Museum donation) was there, but maybe not paying it until the end of the year. Mr. Mosher said that if there were an infrastructure item that could be handled for \$20,000, then he would be in favor of putting the \$20,000 to one of the infrastructure items. He wants to see if something can be done for the infrastructure items. He would like to see the Museum open its books.

Tennis Courts:

Mrs. Pollard said that Garry Luckham and John Pollard will take down the old backboard, hang a new one, and paint it. Mr. Creery, who has given a bid, will reduce the price for the reduce work. He will check on the hunter green paint. He hopes to be able to do the work within the next two weeks or at least by the middle of September.

Adjournment:

The Mayor adjourned the meeting at 8:45 P.M.


Alexander McD. Fleet, Mayor

**Irvington Town Council
Regular and Public Meeting
July 10, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office on July 10, 2003, at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph D. Ransone
Council	William H. Evans, III Garry J. Luckham Norman Mosher Robert Pittman Kathleen Pollard
Zoning Administrator	John C. Fitzpatrick

Absent

Legal Counsel	Matson C. Terry, II
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Guest:	Paul Carlson
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The Mayor opened the meeting with a prayer at 7:44 P.M. He mentioned that the Council had received a thank you for its contribution from the Lancaster/Kilmarnock Rescue Squad.

Minutes and Treasurer's Report:

Norman Mosher made a motion to approve the minutes of June 12, 2003, June 26, 2003, and July 8, 2003, with the deletion of the last paragraph in the minutes of July 8, 2003. He said that the question and answer in the paragraph had taken place after the meeting was adjourned. Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

The Mayor explained the source of the bank franchise fee. Kathleen Pollard made a motion to approve the treasurer's report. Robert Pittman seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Zoning Administrator: No report.

Legal Counsel: No report.

Planning Commission: No report.

Old Business:

Sidewalks in B-1 and B-2 Business Districts: Paul Carlson, stated that he would like sidewalks extended from the Trick Dog area to his business at 4283 Irvington Road and stated that Bay Window owners would also like to have the sidewalk extended to their business at 4265 Irvington Road. He thinks that having a sidewalk to his business would improve business and eliminate solve a safety issue.

The Mayor said that the VDOT right of way extends five foot in from the curb. No poles will need to be relocated as VDOT would allow the Town the six inches that one pole is located in the right of way. Mrs. Mitchell has sold her property to Andy Smith, who has sold it (to the Johnsons). Mrs. Mitchell can stay in the home as long as she wants. Mike Molineaux and Mrs. Mitchell have agreed to the sidewalk. There are no plans to correct Mrs. Mitchell's drainage problem. Mrs. Smith and Rumsey & Bugg, the attorneys, would like the sidewalk to extend to their entrances. Mr. Rumsey said they are considering relocating the driveway.

The proposed five foot wide sidewalk meets the ADA requirements. Mr. Fitzpatrick has received bids for the sidewalks in two parts:

- 1.) Molineaux to Bay Window
- 2.) Trick Dog to Rumsey/Bugg

Estimates are in the neighborhood of \$6000 with one about \$500.00 less. Estimates are from Cox of Callao and Gene Dawson of Heathsville. Mr. Dawson's bid does not include disposal of the dirt. Everything else is included in the bid-preparation, forms, and materials-expansion of the joints. A permit from the State will be needed. The sidewalks are not going to include drive-way aprons as the sidewalks will be between the drive-ways. The phone and water boxes will be flush with the sidewalks. Mr. Evans made a motion to approve Gene Dawson of Northern Neck Texture Crete to construct the sidewalk contingent upon acquiring the VDOT permits. His costs were \$3750 for the Molineaux to Bay Window part and \$1800 from Trick Dog to the Rumsey&Bugg's entrance. Ralph Ransone seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Tennis Courts: The Mayor has had the bushes cut on the outside of the fence at the tennis courts. Jane Jackson has looked at the courts, and Garry Luckham thinks that the backboard can be reversed and continued to be used. Kathleen Pollard will contact Mike Creery, who gave the bid of \$1475 to paint the fence and will ask him if he can paint the fence hunter green. Ralph Ransone made a motion to paint the fence if Mr. Creery can change the color to hunter green. William Evans seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Announcement:

The Mayor announced the concert on August 2nd.

Adjournment:

The Mayor declared the meeting adjourned.


Alexander McD. Fleet, Mayor

Town of Irvington

Alexander McD. Fleet
Mayor

John C. Fitzpatrick
Town Manager
Zoning Administrator

Matson C. Terry, II
Town Attorney

Jacqueline H. Burrell
Clerk of Council
Treasurer

235 Steamboat Road

Post Office Box 174

Irvington, Virginia 22480

Telephone (804) 438-6230

Fax (804) 438-6865

e-mail: townofirvington@rivnet.net

COUNCIL MEMBERS

Ralph D. Ransone
Vice-Mayor

William H. Evans, III
Garry J. Luckham
Norman G. Mosher
Robert A. Pittman
Kathleen F. Pollard

August 21, 2003

Memorandum

To: Members of the Town Council

Subject: Sidewalk Construction

In finalizing the details for the sidewalk project and completing the VDOT permit application, but especially when scheduling a date with the contractor for the actual construction, it became apparent that I had not included the pricing for a section of the sidewalk when calculating and reporting the cost of the job.

When I requested bids for the work to be done, the pricing was to be submitted based on the cost of three separate sections of the sidewalk, with each section being priced separately. The proposals received did follow the instructions but did not include an overall total for the three sections. In reviewing the bids and accepting the least expensive, and because our discussions concerned a sidewalk running from Bay Window to the driveway at Village Needlepoint (at a cost of \$5,550), when reporting the cost of the project I inadvertently left out the pricing of the last section (running from the driveway at the Village Needlepoint to the office of Rumsey & Bugg). The cost of that section is \$2,100 - for a total cost of the three sections of \$7,640.00.

The contractor is scheduled to begin the work on September 2, 2003. May I have your thoughts as to the extent of the work that you wish to be done.

Sincerely,

John C. Fitzpatrick
Zoning Administrator

IRVINGTON BUDGET - 2003-2004

DISBURSEMENTS

Gross Wages	\$20,728.00
Employees' Federal Withholding	
Employees' FICA	
Employees' Med B.	
Employees' State Withholding	
Total Employees' Withholding	
Net Wages	
Employer's FICA	
Employer's Med B	
Employer's VA Unemployment Tax*	
Total Payroll Taxes	\$1,928.00
Utilities - Town: Elect. Fuel, Phone, Water	\$8,600.00
Elect. - Ches. Acad.	\$22,000.00
Office Equip. & Supplies	\$3,000.00
Office Maint. - Furn, Cleaning, Garbage	\$1,300.00
Ground Maintenance - Grass	\$2,000.00
Auto Tags	\$1,500.00
Insurance	\$2,500.00
Rappahannock Record	\$400.00
Dues	\$500.00
Election	\$600.00
Miscellaneous	\$41,374.00
Contributions:	
Fire Dept	\$250.00
Rescue Squad	\$250.00
Air Force Band Concert Dinner	\$200.00
Museum	\$20,000.00
Legal/Acc't/Survey	\$5,000.00
Christmas Lights/Flags/Ju4 Parade	\$2,000.00
Fire Grant/State	\$6,000.00
Museum Grant/T-21	\$0.00
Infrastructure Improvements:	
Water & Sewer	\$0.00
Sidewalks	\$0.00
Street Lighting	\$0.00
Bike/Hike Paths	\$0.00
Real Estate Acquisitions	\$0.00
Underground Power Lines & Cables	\$0.00
Commons Master Development Plan	\$0.00
TOTAL	\$140,130.00

IRVINGTON BUDGET - 2003-2004

RECEIPTS

Sales Tax	\$25,000.00
Auto Tags	\$9,000.00
Sale of Books	\$50.00
Zoning Permits	\$1,000.00
ABC	\$1,000.00
Tennis Permits	\$100.00
VA Power- Ches. Acad.	\$22,000.00
Maps, Copies, & Pewter	\$0.00
Cable TV	\$2,400.00
Ground Rent	\$480.00
Interest - CD's	\$5,000.00
Interest - Checking	\$100.00
Bank Franchise	\$8,000.00
Contributions	\$0.00
Miscellaneous	\$0.00
Estimated Income from Occupancy Tax	\$60,000.00
Fire Grant/State	\$6,000.00
Museum Grant/T-21	\$0.00
Infrastructure Improvements	
Water & Sewer	\$0.00
Sidewalks	\$0.00
Street Lighting	\$0.00
Bike & Hike Paths	\$0.00
Real Estate Acquisitions	\$0.00
Underground Power Lines & Cables	\$0.00
Commons Master Development Plan	\$0.00
TOTAL	\$140,130.00

**Irvington Town Council
Special Budget Meeting
July 8, 2003**

The Irvington Town Council met at the Irvington Town Office on July 8, 2003, at 7:30 P.M. to finalize the budget for 2003-2004.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph Ransone
Council	Garry Luckham Norman Mosher Robert Pittman Kathleen Pollard
Legal Counsel	Matson C. Terry, II
Zoning Administrator	John C. Fitzpatrick

Absent:

Council	William H. Evans, III
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Visitors:

Tom Richardson

The Mayor called the meeting to order at 7:44 P.M. He explained that the occupancy tax was in its first year; therefore, the Council does not have experience in projecting the receipts. In the revised proposed budget being presented at this meeting, budget line items for water/sewer were added to both disbursements and receipts. Based on the approximately \$15,000 received in occupancy tax since January, the anticipated income for the occupancy tax was reduced to \$60,000. The suggested contribution to the Museum is \$20,000.

Robert Pittman questioned the significance of \$41,374.00 in Miscellaneous Disbursements and he was told it was the balance of the unallocated occupancy tax. Norman Mosher questioned about the CD's and if they could be used against line items in the budget. The Mayor explained the source of the money in the CD's. He said that the CD's could be used to purchase land.

It was decided to list the organizations to which the Town is proposing to contribute: Museum, Fire Department, Rescue Squad, and the Air Force Band Concert Dinner.

Norman Mosher requested that infrastructure improvements be broken down into categories such as water sewer, sidewalks, lighting, bike paths and show \$0.00 for both disbursements and receipts. He said that there should be a master plan for the Commons, including perhaps a theater on the Commons, and another money making enterprise that could help the Museum. A consultant could be hired to develop the plan. The categories could be revisited in a few months after more experience with the occupancy tax.

Norman Mosher wants to "0" the contribution items and revisit them in a few months after more experience with the occupancy tax and he questions philosophically whether or not the Town should be making a contribution to the Museum. Garry Luckham mentioned the Council's giving to the VIA and the

IBA. Ralph Ransone said that the Museum was a tourist attraction for the tourists. He did not have a problem with contributing to it. He thought the infrastructure items should be assigned priority. He likes the Commons open and questions if there could be a portable stage for elevating the band, but recognizes the problem of storing the stage. Robert Pittman wants to benefit the groups which provide the tax, wants figures to remain as line items, and he thinks the Museum contribution should stay in the budget.

Ralph Ransone asked if we could adjust the contributions if the Town receives less tax. Mr. Terry said that the Council could as it was not authorized for deficit spending. Norman Mosher said to leave the \$20,000 in the budget as a contribution to the Museum. Mr. Terry reminded the Council about the possibility of purchasing the adjacent property (of which the Town has an interest) if it should become available. Ralph Ransone said that the Town may at some future date want to purchase water front property. Norman Mosher said including the infrastructure items would show the Council as being proactive.

Ralph Ransone said that the Town will need to purchase new flags next year.

The Mayor summarized the points made in discussion:

- 1.) List infrastructure items with a \$0.00 balance
- 2.) Breakdown contributions with contributions to Fire Department, Museum, Rescue Squad, and Air Force Band Concert Dinner
- 3.) Leave the Museum contribution of \$20,000 in the budget.


The Mayor said that he thinks the Council should consider these things one at a time and that it has some obligations such as sidewalks in the B-2 District or in the future, West Irvington, street lights, and street cleaning. Mr. Terry said to remember that if sidewalks were put in by the Town, then the Town would be liable.

Mr. Mosher also wants to line item the Commons Master Development Plan.

Mr. Mosher made a motion to accept the budget as presented and amended by categories. Robert Pittman seconded the motion. Vote— Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Adjournment:

The meeting was adjourned.


Alexander McD. Fleet, Mayor

**Irvington Town Council
Special Public Hearing
June 26, 2003**

The Irvington Town Council held a special public hearing for the purpose of receiving public input on the proposed 2003-2004 budget at the Irvington Town Office on June 26, 2003, at 7:30 P.M., and to set the date to approve the budget.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph Ransone (arrived late)
Council	Garry Luckham Norman Mosher Robert Pittman Kathleen Pollard
Zoning Administrator	John C. Fitzpatrick
Legal Counsel	Matson C. Terry, II

Absent:

Counsel	William H. Evans, III
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Guests:

Duncan Bright
Paul Carlson
Larry McAfee

The Mayor called the meeting to order and stated that the purpose of the meeting was to hear public comment regarding the proposed 2003-2004 budget and to set a date to finalize the budget. Robert Pittman made a motion to go into a public hearing and Garry Luckham seconded the motion. Vote: Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. Matson Terry left the meeting.

Public Hearing:

Duncan Bright, representing the Irvington Business Association, had given letters to the members of the Council, outlining the IBA proposal for considerations for the 2003-2004 budget. The letter is filed with the minutes. He wanted to apply for a T-21 grant to pay consultants to address the current building and zoning codes and to plan for upcoming projects and stated that the deadline was August 1. (Mayor stated that it was July 1, 2003.) He stated that the IBA wanted to make the Town boat, pedestrian, and bicycle friendly.

Larry McAfee stated that he was on the Board of the Steamboat Era Museum and he would like for the Town to support the Museum by earmarking a special amount to the Museum with a specific amount of time for the financial assistance. Other projects that he would like were: bike paths, beautification of the Town, sidewalks, and sewage/water treatment.

Kathleen Pollard made a motion to come out of the public hearing and Garry Luckham seconded the motion. Vote - Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Date to Approve Budget:

Norman Mosher made a motion to meet Tuesday, July 8th at 7:30 P.M., to work on the budget. Garry Luckham seconded the motion. Vote - Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Adjournment:

The meeting was adjourned.



Alexander McD. Fleet, Mayor

Irvington Business Association
P. O. Box 212
Irvington, Virginia 22480

The Town Council
Irvington Town Center
Irvington, Virginia 22480

June 27, 2003

Dear Town Council:

The Irvington Business Association (IBA) represents forty-four companies doing business in the town of Irvington. The IBA dedicates its resources to promoting and educating the businesses in Irvington; expanding local tourism in a friendly, small town atmosphere; and, supporting activities that benefit the citizens of the Northern Neck and its enterprises.

On that note, the IBA would like to present to the Town Council considerations for the fiscal 2003-2004-Town of Irvington budget.

Our proposal takes the form of a three-step process, laid out in detail on the attached document. Step 1: Address the current Building and Zoning Code; Step 2: Address the current infrastructure of the Town; Step 3: Implement structures to enhance the quality of living for residents and visitors.

The IBA developed the current Town map and directory. We had 15,000 printed at a cost of \$2,061.00. Currently we have distributed 13,500 of the pamphlets to Irvington businesses and the Town office. We would appreciate any monetary assistance the Council could find to help us defray some of the printing costs for the next batch.

Furthermore, the IBA would like to voice its support for the Steamboat Era Museum. We feel that the Town should support an effort that will promote an increase in visitors to the area. We do believe however, that funding dedicated to the museum should also be beneficial to the town, and feel that certain projects would be mutually compatible.

We appreciate the time and effort the Town Council is expending, and hope to work closely with you to ensure the best for our Town.

Sincerely,

M. Hatley Bright
President,
Irvington Business Association

Attachment enclosed

I. Review the current Building and Zoning Codes.

A. Dedicate funds to hire a consultant.

1. Establish architectural standards that will enhance the character of the Town, and prevent undesirable "industrial", "institutional", or "strip mall" looking designs.
2. Review signage style and sizes for businesses.

B. Get T-21 to hire consultant.

II. Establish a plan for the infrastructure of the Town.

A. Prescribe funds for a committee or consultant to plan for upcoming projects.

1. Sewer hook up for the Town.
 - a. Sewer hook up addresses some environmental concerns of Carter Creek.
 - b. Solves septic field and poor perking problems.
2. Underground placement of power lines and cables.
 - a. Can be done at the same time as the sewer is being laid.
 - b. Or, a conduit may be laid to allow the lines to be pulled through later.
3. Erect street lights – continuing the "Gas Light" look.
4. Build sidewalks for all business areas on both sides of the street.

III. Implement structures to enhance the quality of life in the Town.

A. Commons Area development to enhance its use and visual appeal.

1. Establish funds to hire a consultant to review feasibility and costs for Commons Area improvements.
 - a. Erect a stage for musical and theater performances.
 - b. Create some type of cover for the farmer's market participants and attendees.
 - c. Establish restrooms on the Commons.
 - d. Determine a location for the Town offices to be located.

B. Create a pedestrian and bicycle friendly Town.

1. Create bike paths and/or sidewalks within the Town limits.
 - a. Extending to the borders, along Rte 200, on the south & north sides of the Town limits.
 - b. Build sidewalks on smaller Town roads such as:
 - i. The Lane
 - ii. Chesapeake Dr., etc.
 - c. Establish a committee to work on a plan to extend a bike path to White Stone.

C. Make it a boat friendly town - water access

**Irvington Town Council
Regular and Public Meeting
June 12, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office on June 12, 2003, at 7:30 P.M.

Present:

Mayor	Alexander Fleet
Vice-Mayor	Ralph Ransone (arrived late)
Council	William Evans Garry Luckham Norman Mosher Robert Pittman Kathleen Pollard
Zoning Administrator	John C. Fitzpatrick
Legal Counsel	Norman Mosher

Visitors:

Duncan Bright	Bob Morrison
Don McCann	Bill Wright
Jimmie Lee Crockett	Cabell Westbrook
Bob Hardesty	Paul Carlson

The Mayor opened the meeting with a prayer at 7:30 P.M. Mr. Ransone arrived.

Public Hearing: Budget

Norman Mosher made motion to go into a public hearing for the purpose of receiving public input regarding the proposed 2003-2004 budget. Bill Evans seconded the motion. Norman Mosher moved that the public hearing be postponed indefinitely because the notice in the paper was incorrect. He said that his motion would take priority over the previous motion and that indefinitely could be for 30 days or the meeting could be postponed to a specific date. He stated that the Council could be accused of being unethical as the article in the paper was not correct and it could be interpreted as being misleading. Mr. Ransone seconded the motion. Mr. Terry stated that the problem with postponing the hearing indefinitely was that the State Statue required the passing of the budget. Vote to postpone the hearing indefinitely – Yea: 0. Nay: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Norman Mosher made a motion to continue the public hearing to July 26 at 7:30 P.M. Bill Evans seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

It was decided that the public could provide comments at this meeting. Vote to go into public hearing – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Duncan Bright asked about the proposed miscellaneous amount of \$46,374 which is the balance of the occupancy tax. It was indicated that the ditch repair could come from this amount.

Don McCann, President of the Steamboat Era Museum, stated that if the Town were to provide financial assistance for the Museum, the funds would be used to market the Museum such as in the

Baltimore area and to provide for the exhibits. Financial assistance from the Town would not be used for the administration of the Museum, or for the bricks and mortar.

Mr. McCann further stated that the Museum was poised to do fundraising and was trying to finish its strategic plan. He said that the Pilot House was not on the front burner as the Museum was trying to work on the exhibits in order to open the Museum (planned for January, 2004). In response to the question of what was the projected income, the Mayor, who attends Museum Board meetings in an ex officio capacity, stated that the projection was 25,000 visitors annually at an admission charge of \$4.00 each. Robert Pittman asked what was the firm charging to do the exhibits. The answer was \$400,000. The Mayor said that there were sections available for naming and that donations could be made at \$100 per square foot. Norman Mosher asked if the Mayor should recuse himself because of a conflict of interest. In the case of a tie-breaking vote, the Mayor said that he would not vote. In reply to Mr. Pittman's question if the Town had an obligation for the Museum, Mr. Terry replied that the Town was obligated for the grant until the Museum was up and going. The exhibit firm of 1717 was hired by the Museum. Mr. Evans asked if there were an undercurrent for not supporting the Museum. The reply was that there were mixed emotions. Mrs. Pollard said that residents had said that they did not want all the funds from the occupancy tax going to the Museum—that there were other potential uses.

The Mayor said that there was a corporate board and a foundation board. The Foundation Board would be responsible for raising money.

Rob Huff asked for clarification on his article.

Duncan Bright, representing the Irvington Business Association, thinks that the Town should support the efforts of the Museum, which would aid the Town. He was concerned that a large sum might be going to the administration of the Museum. He thinks that the occupancy tax should be used to increase tourism, and thinks the Town should look at other ways to make the Town a draw:

- 1.) Irvington Commons
- 2.) Town hire a consultant for the commons and build a musical stage
- 3.) Build a cover for the farmers' market
- 4.) Restrooms at the Commons
- 5.) Town Office at the Commons
- 6.) Council pay some attention to the IBA (44 Businesses)
- 7.) Street lights – gas light look, burying power lines, cables
- 8.) Sewer hook-ups
- 9.) Sidewalks extended in B-2 both sides of the street
- 10.) Bike path on north and south ends of Town to Kilmarnock and White Stone
- 11.) Residential bike path where not sidewalks
- 12.) Help with the cost of the Irvington Brochure. Printed 15,000 – 11,000 distributed. Artistic work on the brochure for sale @ 125.00 each. Profits distributed: 1/3 to Town, 1/3 to IBA, and 1/3 to Brain Injury Association which helped the artist.

Norman Mosher said that he had raised the question about sewers and would like input from the Planning Commission about resources needed to get the study started. Bob Morrison said the Commission may need to organize a budget.

Bob Hardesty, as a volunteer, stated that everything they wanted to do was great and asked the question "who was going to do this?" He said that there are about six people doing the Farmers' Market. He said that more activities take labor and he appealed for non cost labor.

Bob Morrison stated that the Town could use tourist money from tourists to give them a tourist attraction and eliminate the need to use money invested.

Garry Luckham made a motion to come out of the public hearing and continue the hearing on July 26, 2003. Robert Pittman seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

The Mayor stated that there were letters from William Westbrook of the Hope & Glory and Larry McAfee of the Tides Inn supporting the donation of a portion of the occupancy tax receipts to the Museum and to tourism.

Public Hearing: Cabell Westbrook – Subdivision of Map 33, Parcel 422:

Ralph Ransone made a motion to go into a public hearing and Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Mr. Westbrook wants to split his parcel of 2.147 acres into two lots, each, one plus acres. Mr. Fitzpatrick stated that there had been no objections and the surveys have been signed. The plat was prepared in keeping with the subdivision ordinance. Mr. Westbrook had no comments and there were none from the public. Mr. Ransone made a motion to come out of public hearing and Garry seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. The Health Department has approved the septic system sites as well as a reserve site for the lot with the current existing home. There will be a separate drive for the new lot. He does not plan to build on it at this time. The Planning Commission approved the subdivision. Garry Luckham made a motion to approve the subdivision and Norman Mosher seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. The Council Members came out of the public hearing.

Legal Counsel:

Mr. Terry read the provisions of the T-21 Grant from the contract with the Town. If the Project is not completed the State recovers from the Town. The Town recovers from the Museum..He said that the Town would be considered a creditor of the Museum.

Mr. Terry said that he had sent a letter to the Chief Judge of the Circuit Court for approval of the appointment of Mr. Newlon to the Board of the Zoning Appeals and that the Judge had not acted on it. He will resubmit it and also request approval of the reappointment of Mrs. Crockett to the Board.

Minutes and Treasurer's Report:

Kathleen Pollard made a motion to approve the minutes and Norman Mosher seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Norman Mosher made a motion to approve the treasurer's report and Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Planning Commission Report: No report.

Old Business:

Town Police: Mr. Evans reported that Sheriff Crockett wants to place a speed box to register motorists' speed in the Town. He said that his recommendation would be that there be no parking in front of Dr. Westbrook's from 10:00 A.M. to 5:00 P.M. because of the poor visibility for people coming out of Chesapeake Drive. He thought that a blinker was needed on Rt. 200 coming from White Stone into Irvington because the speed reduces from 55 to 35 to 25. Mr. Mosher said that sooner or later, the problem of the 18 wheelers were going to have to be addressed. The Mayor said that they could not be stopped from driving through Irvington. Ralph Ransone noted that there had been an increase in traffic and said that the Church corner was also a problem area. The County and State police have both been in Irvington. He thought that the Town needed to enforce the speed limit.

Tennis Courts: Mrs. Pollard reported her quick fix and rich fix for improving the tennis courts. It was decided that this information will be carried over to the July meeting.

Fourth of July Parade: Mr. Bob Hardesty gave an update on the parade preparations.

New Business:

BZA: Norman Mosher made a motion to reappoint Mrs. Crockett to another five year term on the BZA, which would end May 8, 2008. Bill Evans seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Ditch: Plans are in progress

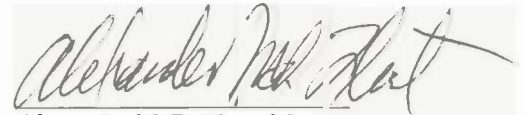
Street Cleaning: Ralph Ransone and Garry Luckham will try to find out whom the State uses to clean streets and gutters. The State did not clean the streets/gutters this spring or early summer.

Announcements:

The Mayor read the announcements of the upcoming events.

Adjournment:

The meeting was adjourned.



Alexander McD. Fleet, Mayor

**Irvington Town Council
Regular and Public Meeting
May 8, 2003**

The regular and public meeting of the Irvington Town Council was held at the Town Office on May 8, 2003, at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph D. Ransone
Council	William H. Evans, III Garry J. Luckham Norman G. Mosher Robert A. Pittman Kathleen F. Pollard
Zoning Administrator	John C. Fitzpatrick

Absent:

Council	William H. Evans, III
Legal Counsel	Matson C. Terry, II

Guests:

Bruce King	Frances Ramzey
Mr. and Mrs. Dutch Heidsieck	Jimmy Lee Crockett
Robert Lee Stephens	Paul Carlson
Attorney Rau	Don McCann
Jim Johnson	Jimmy Carter
H.S. Gov't Students	
Brian Poole	
Mr. Coyt	

Steamboat Era Museum:

Representatives from the Steamboat Era Museum were present to request financial help from the Town. A film about the steamboat era that Bill Westbrook created was shown to show the importance of steamboats to the development of this area. Robert Lee Stephens spoke of the importance of the Steamboat Era Museum to the Town, visitors, to The Tides Inn and to the Hope and Glory. Based on his past knowledge of The Tides Inn, he estimated that the Town could receive \$90,000 from the occupancy tax and he requested that the Town give 75% of the receipts for the first several years to help the Museum. Jim Johnson stated that the Museum will increase the attraction of Irvington. The Mayor announced that there will be a public hearing at the Town Council Meeting on June 12, 2003, prior to the Budget adoption at a special meeting. Notice will be in the Record on May 29, 2003. Kathleen Pollard asked about the fundraising activities of the Museum. Don McCann informed the Council about the Museum's feasibility study to determine the best method for the fundraising and the recommendation that there be one big event for fundraising and to open with a "WOW."

Norm Mosher said that he would like to see a plan regarding how long the Town's contribution would fit into the Museum's total fundraising plan as he does not want to see the Steamboat Era Museum become dependent on the Town. Jim Johnson agreed that this request was reasonable.

The Mayor said that the Town was involved by virtue of being the recipient of the \$220,000 TEA-21 grant. The Mayor of Irvington (the person occupying the position) is an ex officio member of the Board of the Museum. The Mayor said that he has informed the Hope & Glory and the Tides Inn that the Museum was going to make the request.

Vineyard Grove Development Subdivision:

Garry Luckham made a motion to go into a public hearing. Kathleen Pollard seconded the motion. Frances Ramzey said that she had not received notices of the hearings for the subdivision, the Winery amendment, or the Trick Dog shops. It was noted that she did not receive notice of the subdivision hearing because she was not within 300 feet of the subdivision. The fees have been paid, notices have been given, and the Planning Commission has recommended approval. VDOT has signed off on the subdivision. Mr. Carter said there are 19 building sites. Gary Grabbe performed the soil evaluation tests and the Department of Health will issue the permits. He asked the Council to give approval to the subdivision contingent upon the Health Department's approval when they receive an answer to a question about the mass drainfield. Primary and reserved drainfields are marked on the plat.

The cottages' footprint will be 16'x32' and will feature a carpenter Gothic cottage style of architecture. Ralph Higgins is the landscape architect and Randall Kipp is the architect for the cottages. They plan to start five cottages within sixty days. Northern Neck Water will put in a private water system for the development. They plan an open pastoral look visible from the VSH Rt. 200.

Mrs. Ramzey said that she wanted to be on record that she thought that Bill Westbrook had done damage to her pond.

Norm Mosher made a motion to come out of the public hearing. Garry Luckham seconded the motion. Vote- Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Norm Mosher questioned how they would handle a potential sewage system. Jimmy Carter said that they would handle it the same way as anyone else. Kathleen Pollard made a motion to approve the subdivision contingent upon the final approval by the Health Department. Norm Mosher seconded the motion. Vote - Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Fourth of July Parade:

Tom Richardson gave an update on the Fourth of July Parade to be held on July 4, 2003, at 11:00 A.M. A committee is recruiting old cars. Hot dogs will be available afterwards and the antique cars will be on display for viewing.

Minutes and Treasurer's Report:

Norman Mosher made a motion to approve the minutes. Garry Luckham seconded the motion. Vote - Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Norman Mosher made a motion to approve the treasurer's report. Kathleen Pollard seconded the motion. Vote- Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0

Planning Commission Report:

Robert Pittman reported that the Zoning Administrator had talked with Lloyd B. Hubbard, Mayor of White Stone about working together on a sewage system.

The ~~Bike Path~~ plan will be put out for bids. The plans have been modified to reduce the cost. The County provided an additional \$50,000 for the project.

The Planning Commission had discussed speed and Harris Road's needing to be straightened to encourage truck traffic.

Old Business:

Electricity at the Commons/Christmas Lights Box: Ralph Ransone reported that Glenn Tignor is going to replace the box for the Christmas lights. He may have to add another breaker at the Gazebo to meet the demand for the Farmers' market.

Speed in Irvington: Bill Evans absent – no report.

Tennis Courts: Kathleen Pollard said that she had one bid for the painting of the fence around the tennis courts and she will have another bid within a few days. She will report in June.

New Business:

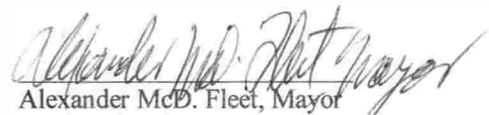
Auto Tag Sale Period: Ralph Ransone made a motion to end the auto tag sale March 31 and Garry Luckham seconded the motion. Vote – Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. The Sheriff requested that this be done to be consistent with the other localities in the County.

Announcements:

Announcements of upcoming events were read by the Mayor.

Adjournment:

Norman Mosher made a motion to adjourn the meeting. Garry Luckham seconded the motion. Vote– Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.


Alexander McD. Fleet, Mayor

Special Meeting for the Irvington Residents
Vineyard Drainage
April 2, 2003

Residents Present:

Alexander McD. Fleet, Ralph Ransone, Bill Evans, Garry Luckham, Norman Mosher, Robert Pittman, Kathleen Pollard, Robert Morrison, Bill Wright, Clarke Winner, Richard Newlon, Bill Westbrook, Mark Hollingsworth, Jim Breeden (Attorney for Mr. Westbrook), Frances Ramzy, Richard Rau, (Attorney for Mrs. Ramzy), Robert Lewis, Bruce King, Dave & Kate Raffetto, Stanford Crockett, Dudley Patteson, Jimmy Carter, Lee & Teensa Williams, Phillip Williams, Lara Mills, Martha Morrison, Ed Long Haynie, Ronnie Kerr, Duncan Bright, Peggy Patteson, Larry McAfee, John C. Fitzpatrick, and Jacqueline H. Burrell.

Mr. Robert Lewis

The mayor opened the special meeting called in order for Mr. Robert Lewis to explain to Irvington residents the Vineyard's drainage system. Mr. Lewis works for the National Resource Conservation Service that is under the U.S. Dept. of Agriculture. The agency is responsible for design, management, and education in the areas of control of erosion and water quality for the agricultural community. Mr. Lewis was responsible for planning and overseeing the draitile installation below the surface of the proposed vineyard to lower the water table. Draitiles were placed from 4 to 7 feet under the 4-6 acres of grapes. The system consists of laterals 6 inches in diameter placed perpendicular to a main 8 inches in diameter that flows into the stream that runs parallel to Route 200 (coming from the Kilmarnock direction). He said that 100 foot sections of corrugated plastic drain tubing (terracota tile was formerly used and thus called "draitile") with slits 3/16 inch x 1 inch will form a vacuum when covered and suck the water from the area.

Regarding the chemicals that would be used on the grapes, Mr. Lewis said that nitrates, phosphorous, and potassium were used since 1957 for farming on the field. Mr. Lewis said with grapes, little nitrogen will be used, phosphorous does not leach and they were not concerned with potassium. The slope of the field is 1%. A cover crop will be planted between the rows of grapes; and therefore, they will not be concerned with erosion. Regarding pollution in the Creek, it would be from either sediment or from chemicals used to control weeds. He said there was sassafras soil in the area of the draitiles and that is medium to high for leaching. Mr. Lewis said that where they put draitiles there is low leaching potential for pesticides. Mr. Lewis pointed out the non-point source pollution in the Northern Neck was from pesticides used on farming fields and yards, and from salt treated lumber for bulkheads and docks. He said that with grapes, there would be less pollution of the creek because grapes will require less nitrogen than would be used on a 70 acre soybean field.

Mr. Breeden, representing Mr. Westbrook, said that this had basically been a scare campaign. They were going from 70 acres of soybean farming to four acres of grapes with four feet of soil above the draitile serving as a filter. There is a ditch running parallel to Rt. 200 created by VDOT which also empties into the stream. This ditch drains runoff from Route 200 and the Dawson Subdivision. Mr. Westbrook had water samples, collected the same day, from the highway ditch-20 feet upstream, from the pond, and from the outlet. The color of the water samples was compared.

Dr. Williams said that Mr. Lewis had told him that the plan is to have 6 acres of grapes on a 10 acre area to be drained by 15 lateral draitiles with an average length of 600 feet, draining into an 8 inch main pipe creating approximately 2 miles of black pipe. Dr. Williams said, in his opinion, that soluble nitrates would be draining through the soil into Sam's Cove which would be a point source pollution to the Creek. Mr. Westbrook asked him what part of this (what he had drunk) would be pollution and he responded that he had not applied malathion, septin and other chemicals that will be sucked into the tubes. Mr. Lewis said that they would be filtered down through the 4-5 feet of soil. Dr. Williams said that the filtering through the soil would take out sediment, but would not take out those soluble chemicals which

are organic nitrates that would ultimately flow through the ponds. He was concerned about the fact that this drainage would pass by the Nature Walk belonging to Chesapeake Academy at the head of Sam's Cove. He read about the marine life in the Nature Walk and showed pictures taken at the beginning of the connection of the drain system and then three weeks later during which time a white foaming material had accumulated in the Nature Walk area.

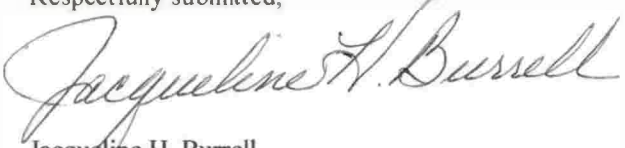
Mrs. Frances Ramzy expressed concern about her pond being used for drainage. Mr. Breeden said that it had always been used for drainage. Jim Breeden said that one of the reasons that water was higher in her pond was because the drainage outlet under the road was clogged. Mr. Breeden said that he had been told by the Vitaculture Department that they would help him monitor the water. Mr. Rau asked why could it not be drained back to the lake. He did not think this was natural drainage. Mr. Rau said that aside from the quality of water was the issue of water being channeled onto Mrs. Ramzy's property. Mr. Breeden said the water is not draining on Mrs. Ramzy's property, but was draining into the stream, which in turn is following its natural course. Mr. Mosher asked what is the accepted size of the buffer zone. Mr. Lewis said that buffers usually go up to a 100 feet. He said that in this case, there were several hundred feet of wooded area between drain tile and the pond to serve as a buffer area. Previously the surface water had drained in all directions, but now it was being channeled. Mr. Westbrook said there was not a lake on his property. Dr. Williams asked him why did he not create a settling pond. Mr. Breeden said that there had been a lot of rain this spring to help the ponds fill up and if they would clean up the drainpipe under the highway, it would drain. He said that the system was not designed to drain nitrates and toxic chemicals. He said that the VPI expert, Tony Wolfe, had said that it was laughable that this will cause more pollution than 70 acres of soybeans. When Mr. Westbrook asked Mrs. Ramzy if she were upset by the water sample, she replied that she distrusted anything he presented. Mr. Terry said that the Health Department requires 36 inches of separation of soil between the water table and the drainfield for homes. Mr. Rau said that if a sample of water is taken now, it would give a baseline. Dr. Williams said that you were comparing apples and oranges when you compare surface water runoff and water being drained through a system of pipes draining into one pipe through a stream. Dr. Williams named chemicals such as malathion, pyrethrum, and other chemicals that could go through the pipes. He said that testing could be done after each spraying. He said that nitrates would kill fish. In response to a question, Mr. Hollingsworth said that copper and sulfur were used to control mold. Mr. Hollingsworth said that the chemicals on the wood of the pier in the Nature Walk were worse. Mrs. Ramzy said the bottom line was she did not want his drainage going through her property. Mr. Lewis said that no one could ever say they were never going to have chemicals in the stream. He did not think that 100 to 150 pounds of nitrogen per acre for agriculture was worse than the chemicals for soybeans, Mrs. Ramzy say they may have had runoff, but it was not channeled through her property. Mr. Lewis said with chemicals, there were other considerations such as application. He said that it was no worse than it had been since 1957. It is a natural drainage way and the State recognizes natural drainage system. Once the water table is down to the bottom of the tiles, then it is not going to rise.

Dr. Williams read a letter from Sam Monroe in which he said that in February 2002, he had been concerned about what would be used on the grapes. He said he was told there would be no runoff. This year he found out that berms and settling ponds were not going to be used and there was a subsurface drainage system. He suggested that measures be taken to divert the runoff to a new pond on Mr. Westbrook's property. Mr. Stanford Crockett said that he had never seen the water as high as it is now and the water has cut through the top of the dam. The pine tree and bench are now in the water. Mr. Mosher questioned if the Town has any jurisdiction. Mr. Fitzpatrick said it was an agricultural pursuit and is under the authority of the U.S. Department of Agriculture. Mr. Lewis said that he has not looked at the pond in question. Mr. Breeden again said that the outlet under the road is clogged and clearing that will lower the water in Mrs. Ramzy's pond. Dr. Williams said that there was water coming out of the culvert under the highway. Mr. Breeden said that more would come if it were unclogged. Mr. Lewis said that an individual can put in a settling pond if he has a high water table and it would be half full before you start and thus you will need a pumping system to drain it in any event. Therefore, it is not practical. He thinks there are already drainfields for septic systems in the field. Duncan Bright asked if the pipe could be cut off and left underground to seep into the ground. Mr. Lewis said that the system works on gravity feed, and water would seep back into the soil. If there is any sediment, then it will back up. Clark Winner asked if a filter could be put on it. Mr. Lewis said to make certain that it is polluting before you put in a filter. Straw has

been used as there is some discolored water at the connections, but it keeps the discolored water from the pond.

The Mayor adjourned the meeting at 6:00 P.M.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jacqueline H. Burrell". The signature is written in dark ink and is positioned above the printed name.

Jacqueline H. Burrell

**Irvington Town Council
Regular and Public Meeting
April 10, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office on April 10, 2003, at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph D. Ransone
Council	William H. Evans, III (arrived late) Garry J. Luckham Norman G. Mosher Robert A. Pittman Kathleen F. Pollard
Zoning Administrator	John C. Fitzpatrick
Legal Counsel	Matson C. Terry

Guests:

Mariah & Albert Pollard
Alison Drake & Randall Kipp
Barbara Breeden
Jim Breeden

Visitors:

Robert Hardesty	
3 H.S. Gov't Students	Sam Terry Brian Poole Christine Holbrook

The Mayor opened the meeting with a prayer.

Presentation of Resolutions:

The Mayor traced the history of the Village Improvement Association in Irvington and concluded with saying Alison Drake and Mariah Pollard told him that they would like to revive the Village Improvement Association. Matson C. Terry read the resolutions being presented to Alison Drake and Mariah Pollard as the Town's acknowledgement of their efforts in starting the Farmers' Market, the summer concerts, Fourth of July Parade, beautification projects and the Christmas Boat Parade. (Mr. Evans arrived during the presentations.)

Public Hearing:

Conditional Use Permit: Barbara Breeden and Jim Breeden: Operate a Professional Office in R-1 District at 265 Steamboat Road: The Zoning Administrator stated that the fees had been paid, notices given, the Planning Commission had approved the application, and there were no objections to the application. Mr. Breeden and Ms. Breeden will have an agreement to use the parking lot used by the other professional offices in the neighborhood. There will eventually be inside steps, but the upstairs tenant will continue to use the outside steps until he moves. There will be a glass front door with gold leaf signage on it. The short drive east of the building will remain and probably be used by the secretary that they will bring with them. Norman Mosher made a motion to approve the CUP and Garry Luckham seconded the application. Vote— Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Minutes and Treasurer's Report:

Mr. Mosher made a motion to approve the minutes as amended by the deletion of the statement, that the burden was on Miss Lowery to show damages, from the list of actions to be taken as a result of the decisions made in executive session. Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Ralph Ransone made a made a motion to approve the treasurer's report. Kathleen Pollard seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Zoning Administrator:

The Ditch: The Zoning Administrator reported that Mr. Don James, the engineer, has inspected the ditch to determine what is to be done to correct the situation and he has told Mr. Fitzpatrick that he will try to send him a report by the end of the week.

Auto Tag Sales: Bill Evans made a motion that a friendly reminder letter be sent to the residents, who have not purchased their annual Town tags. Ralph Ransone seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Fees: Ralph Ransone made a motion to approved the proposed Town fees. (Copy filed with Minutes). The doubling of the fee for the After-The-Fact permit is already part of the Ordinance. William Evans seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Old Business:

Irvington Welcome Sign: Mr. Fitzpatrick and Mrs. Pollard are discussing where to locate the Town Welcome Sign.

Sidewalk in B-2 District: Mr. Fitzpatrick explained that the owners in the B-2 Business District would like a sidewalk next to the curb which would place it in the VDOT right of way, and VDOT is not in favor of this. They would like it on the owner's property. On the State right of way, the sidewalk must be five feet wide to meet the ADA requirements (enacted two years ago) and there can be no impediments such as power poles or water meters. Efforts will continue to be made to have the sidewalk placed next to the curb, which would entail putting in a new light pole at the owner's expense as would be the cost of construction of the walk.

Planning Commission Report:

Sydnor: Robert Pittman reported that the Planning Commission wants the Town Council to push Sydnor to know its plans for addressing growth in the number of hook-ups.

Hope & Glory Expansion: Mr. Westbrook has not submitted applications for variances to build cottages on the back property line or to enlarge the gift shop.

New Business:

Sewage: Norman Mosher made a motion that the Council pass a resolution directing the Planning Commission to investigate, without delay, water treatment and sewage treatment for Irvington. Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. Ralph Ransone questioned the possibility of working with White Stone and stated that perhaps the Town could obtain a grant for the study. Robert Pittman is to take the issue to the Planning Commission.

Tennis Courts: Kathleen Pollard and Jack Fitzpatrick will check on repairing the back board at the Tennis Courts.

Trucks Passing Through Irvington: Bill Evans expressed concern about the 18 wheeler trucks speeding through Irvington. Efforts have been made to direct traffic through Harris Road to Route 3 from the Kilmarnock By-Pass. Ralph Ransone said that the only deterrent was in giving tickets to enforce the speed. Mr. Terry said that the County collects taxes from the residents; therefore, the Town needs to push the County to enforce the speed limit through Irvington. The Council approved Mr. Evans' discussing the matter with the Sheriff and making a report next month.

Farmers' Market: Mr. Robert Hardesty acknowledged Garry Luckham and Ralph Ransone's help with directing the Farmers' Market vendors to their respective set-up areas.

Fourth of July Parade: The Mayor announced that the Fourth of July Parade will be at 11:00 A.M. on July 4th.

Executive Session:

Kathleen Pollard read the following motion: I hereby move that the Town Council of the Town of Irvington go into closed or executive session, to consult with legal counsel pertaining to probable litigation concerning the ditch between King Carter Drive and Chesapeake Drive, pursuant to the *Code of Virginia*, Section 2.1-371 1A. (7). Norman Mosher seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Norm Mosher made the motion to come out of executive session.

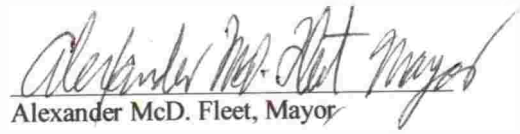
Kathleen Pollard read the following motion for certification: I move that there be a roll call or other recorded vote, to be included in the minutes of this meeting, certifying that (1) only public business matters lawfully exempt from public meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed session; and (2) only such public business as was identified in the motion to convene a closed session was heard, discussed, or considered."

Roll Call: I, Kathleen Pollard, so certify.
 I, Robert Pittman, so certify.
 I, Norman Mosher, so certify.
 I, Garry Luckham, so certify.
 I, William H. Evans, so certify.
 I, Ralph D. Ransone, so certify.

Norman Mosher resolved that the Town Council employ trial attorney, William Kopcsak, at his customary rates, to respond to the threatened litigation by Miss Audrey Lowery. Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, and Pollard. Nay: 0. Abstain: Ransone.

Adjournment:

The meeting was adjourned.


Alexander McD. Fleet, Mayor

Town of Irvington

235 Steamboat Road

Post Office Box 174

Irvington, Virginia 22480

Telephone (804) 438-6230

Fax (804) 438-6865

e-mail: townofirvington@rivnet.net

April 10, 2003

Alexander McD. Fleet
Mayor

John C. Fitzpatrick
Town Manager
Zoning Administrator

Matson C. Terry, II
Town Attorney

Jacqueline H. Burrell
Clerk of Council
Treasurer

COUNCIL MEMBERS
Ralph D. Ransone
Vice-Mayor

William H. Evans, III
Gary J. Luckham
Norman G. Mosher
Robert A. Pittman
Kathleen F. Polard

PERMIT AND ADMINISTRATIVE FEE SCHEDULE

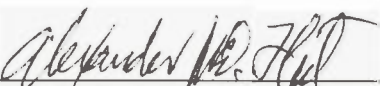
ZONING RELATED PERMITS	FEE
1. Zoning & Fencing	\$ 35.00
2. Subdivision	\$100.00
3. Zoning Appeal	\$ 50.00
4. Conditional Use	\$ 35.00
5. Sign	\$ 20.00
6. Rezoning	\$ 50.00
7. Zoning Amendment	\$ 50.00

ADMINISTRATIVE PERMITS	FEE
1. Raffle	\$ 25.00
2. Vehicle License Tag	\$ 20.00
3. Tennis Court	\$ 10.00

NOTE: Any AFTER-THE-FACT permit fees for zoning related permits will be double the original fee.

This fee schedule approved by the Irvington Town Council on April 10, 2003.

Attest:


Alexander McD. Fleet, Mayor

Samuel E. Monroe
POBox 548
Irvington, VA 22480

March 31, 2003

To: Town of Irvington Town Council

RE: April 2, 2003 Special Meeting: Ground Preparation for the Vineyard, W.
Westbrook property Route 200

From: Samuel E. Monroe

At the February 2002 Town Council Meeting, I voiced my concern about the drainage into both Sam's Cove and Old Mill Cove of pesticides, fungicides, herbicides, nitrates and other chemicals that would be used on the proposed vineyard. At that time I drew a sketch of the area showing the natural drainage and the areas that would be effected - fresh water streams, ponds, wetlands and the tidal march at the head waters of Sam's Cove. Mr. Westbrook and the Mayor assured me that this should be of no concern to those living on Sam's Cove and Old Mill Cove. Special measures - berms, tiles and a settling pond - would be used to control and eliminate the drainage into the Coves. Hearing this, I left the meeting somewhat satisfied that our streams, ponds, wetlands and Coves would not suffer any major damage from the chemicals used on the vineyard.

Earlier this month and much to my surprise, I found out that not only were berms and a settling pond not included in the drainage plan, but the entire 10 acres was designed to have subsurface water drain into approximately 15 tile trenches which are 200+ yards long, and each of those drain into a 6"-8" PVC pipe. This pipe runs several hundred yards parallel to Route 200. There is a spot drain which concentrates the dumping at a rate of approximately 6-8 gallons per minute into a ravine at the low point of Mr. Westbrook's property. This is all subsurface drainage with the issue of normal surface drainage being totally disregarded.

My property is at the head waters of Sam's Cove. Therefore, I am quite concerned about the viable life of the animals, birds and sea life that make this marsh their home.

I suggest to Mr. Westbrook that some measures be taken to eliminate this potential problem. I was told by the project supervisor that the water being flushed into the ravine is quite pure, and has no and will have no chemical or lethal effects - it will be drinkable. I don't believe this for an instant. But if this is the case, why not divert another pipe from the PVC pipe to drain into a new pond on the property. This pond could have fish and other wild life as it's inhabitants. The pond could be beautifully landscaped and would be an asset for future home owners. This would save the streams, ponds, wetlands and marsh from any destruction, and certainly make the downstream neighbors happy.



**Irvington Town Council
Regular and Public Meeting
March 13, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office on March 13, 2003, at 7:30 P.M.

Present:

Mayor:

Alexander McD. Fleet

Vice-Mayor:

Ralph Ransone

William H. Evans III
Garry Luckham
Norman Mosher
Robert Pittman
Kathleen Pollard

Legal Counsel

Matson C. Terry, II

Zoning Administrator

John C. Fitzpatrick

Visitors:

Sam Monroe
Dr. Williams

H.S. Gov't Student

Sam Terry

The Mayor opened the meeting at 7:31 P.M. with a prayer. He congratulated Sam Terry, who had attended the State Wrestling Tournament. He welcomed Sam Monroe and Dr. Williams.

Public Comment:

Vineyard Drainage: Sam Monroe, who lives on Sam's Cove, spoke of his concern about the run off from the vineyard which could eventually flow into Sam's Cove. He said that he had been assured at the meeting in February, 2002, when the Ordinance was amended to allow a farm vineyard/winery, that he would not see any more runoff than normal. Drintiles have been installed to drain the area (Dr. Williams estimates about 2 miles of pipe) where the grapes will be planted. (Soil testing showed that there was a high water table in the area, and grapes do not like "wet feet.") At the time of the meeting, he said that it appeared to him that water was discharging from the pipe at a rate of 4 to 6 gallons per minute. He was concerned about the quantity of water emptying into the pond on Frances Ramzy's (formerly Buddy Gunther's) property and which can subsequently flow through the culvert under the road and into Sam's Cove. He is concerned about the fish in the pond and silt emptying into the Cove. He would like there to be a settling tank/pond near the pond that would receive the water and from which it could evaporate before it could flow into the Cove. He would like a water sample taken at this time (before planting of grapes) so the quality of the water can be tracked. Dr. Williams had attended the same February, 2002 meeting and had expressed concern about what might be in the water that could be harmful to the Cove. He said that he had been told that they were going to use organic fertilizer and he was concerned that it might have nitrates in it that could be a problem for the Creek. He said that many of the "cides" are harmful to fish. Mr. Westbrook has said that they will use hay for filtering near the pond. Mr. Monroe

said he has been told that water coming from the vineyard area is pure enough to drink. Mr. Monroe said that the installation of these

drain tiles were not discussed a year ago or they would have complained then. Jack Larson, who is with the County has no jurisdiction because agricultural activities are supervised by the U.S. Department of Agriculture. Robert Lewis, who designed the system works for National Resources Conservation Service which is under the Department of Agriculture. The Town has jurisdiction only in their meeting the setbacks. Sam Monroe said that he would have thought that the people on Sam's Cove would have been notified.

Mr. Terry said that the DEQ has the expertise and the jurisdiction concerning water discharge; therefore, the Town has to rely on the permit process and if any, the oversight process of the State Government. He said that there may be a disconnect between downstream and what is on agricultural land. He said the Town Council has a right to get a report on the downstream effect. Sam Monroe wants a water sample test before they begin planting. Mat said that they can get a report for him for the next meeting.

Robert Pittman asked how deep were the pipes. Jack said 5-8 feet deep. Dr. Williams said 4-5.5 feet deep. Rannie Ransone said that if the pipes have slots and they do not put any gravel on them, then the dirt is going to pack unless the area is sandy. Dr. Williams said that Mr. Lewis said that they did not use gravel or sand over the piping. Mr. Fitzpatrick is going to speak with Mr. Lewis. The Mayor suggested that Mr. Lewis attend the April Town Council meeting or a special meeting.

Sam Monroe again asked if the water could be piped into a settling pond from which it could evaporate. Matson Terry said that agriculture is the loop hole in the Bay Act and that wetlands can be altered by runoff. Garry Luckham suggested that Mr. Westbrook be informed of the concerns.

Mr. Evans made a motion that Mr. Lewis be asked to attend a special meeting as soon as possible (per legislative requirements for notice). Robert seconded the motion. Mr. Lewis, Mr. Westbrook, Sam Monroe, Dr. Williams, and other concerned persons would be asked to attend. The environmental implications of the runoff from drainage from the Vineyard would be discussed. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Minutes:

Kathleen Pollard made a motion to approve the minutes with the correction of Kathleen Pollard rather than Kathleen Mosher. Garry Luckham seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Bill Evans made a motion to approve the treasurer's report and Norm Mosher seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Zoning Administrator: No report.

Legal Counsel: No report.

Planning Commission: No meeting.

Old Business: None.

New Business:

Support of the Troops: Bill Evans said that towns are coming out in support or not in support of the war and he read a resolution supporting, President, Congress, and the UN Resolution 1441 and the troops and asked if the Council could adopt it. Matson Terry said that this should be the choice of the Town and not the Council. Norm Mosher said the people in Town support both sides as well as the middle

and he would be uncomfortable in supporting the resolution. The Mayor said that people have asked about displaying the flags to show support of the troops. Bill Evans said that he would withdraw his resolution and the the flags could be displayed to show support of the troops. Bill Evans made a motion that the Town Council indicate support of the troops with the display of flags. Norman Mosher seconded the motion. Vote – Yea: Evans, Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

The Council agreed to Bill Evans' putting yellow ribbons on the Irvington Corporate Limit signs.

Banners and Flags:

The Committee will put up the flags and banners.

Chamber of Commerce Annual Party:

The Mayor read the invitation to the Chamber of Commerce's annual party which will be held at the Tides Inn. Council members are to inform the Clerk if they want to attend at their own expense.

Executive Session:

Norm Mosher read the following motion: I hereby move that the Town Council of the Town of Irvington go into closed or executive session, to consult with legal counsel pertaining to probable litigation concerning the ditch between King Carter Drive and Chesapeake Drive, and regarding specific legal and employment matters requiring the provisions of legal advice, pursuant to the *Code of Virginia*, Section 2.1-3711A. (7). Garry Mosher seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Robert Pittman made a motion to come out of executive session.

Kathleen Pollard, read the following motion for certification: I move that there be a roll call or other recorded vote, to be included in the minutes of this meeting, certifying that (1) only public business matters lawfully exempt from public meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed session; and (2) only such public business as was identified in the motion to convene a closed session was heard, discussed or considered."

Roll Call: I, Robert Pittman, so certify.
 I, Kathleen Pollard, so certify.
 I, Ralph D. Ransone, so certify.
 I, William H. Evans, so certify.
 I, Garry Luckham, so certify.
 I, Norman Mosher, so certify.
 I, Alexander Fleet, so certify.

As a result of discussion in the executive session, decisions were made for the following actions to take place:

Obtain an engineering design from Don James, P.E.
Contract the work for ditch.
Obtain Miss Lowery's permission to go on property.
Have soil samples taken to determine if system is compromised: The burden is on Miss Lowery to show damages.
Mr. Terry said that compensation could maybe be the number of months' rent at \$500. 00 a month that she would have had to rent a home.
Give Mr. Terry a copy of Mr. Nunnally's (Miss Lowery's attorney) letter.

Adjournment:

The meeting was adjourned.


Alexander McD. Fleet, Mayor

**Irvington Town Council
Regular and Public Meeting
February 13, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office on February 13, 2003, at 7: 30 P.M.

Present:

Mayor	Alexander Fleet
Vice-Mayor	Ralph D. Ransone
Council	Garry Luckham Norman Mosher Robert Pittman Kathleen Pollard
Legal Counsel	Matson C. Terry, II

Absent:

Council	William H. Evans
Zoning Administrator	John C. Fitzpatrick

Guest:

Paul Carlson, Owner of River Lifestyle Business

Visitor:

H.S. Gov't Student	Sam Terry
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The Mayor opened the meeting with a prayer. He congratulated Norm Mosher, whose dog had recently appeared at the Westminster Dog Show.

Ralph Ransone made a motion to go into a public hearing. Kathleen Mosher seconded the motion. Vote— Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Public Hearings:

CUP: McAllister – Swimming Pool - 631 Glebe Road: In the absence of the Zoning Administrator, Robert Pittman, Planning Commission Representative, reported that the fees had been paid, notices given, and the Planning Commission had approve unanimously the CUP. The pool met the setback requirements and the neighbors did not object. Norm Mosher made a motion to come out of public hearing and Ralph Ransone seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. Garry Luckham made a motion to approve the CUP for a swimming pool with a fence built according to Code. Kathleen Pollard seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

CUP: Paul Carlson – River Lifestyle Business in B-2 Business District 4283 Irvington Road: Kathleen Pollard made a motion to go into a public hearing and Norman Mosher seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. Mr. Carlson is applying for a

Conditional Use Permit to operate a business in the B-2 business district. This represents a change of ownership as Mr. Andy Smith operated the same business in the same location. Mr. Pittman reported that the notices had been given, fees had been paid, and the Planning Commission had approved the CUP. Mr. Carlson will sell the same type of furniture and will probably sell some outdoor furniture. Mrs. Mitchell's back area will be used as a parking lot. Norman Mosher made a motion to come out of public hearing. Ralph Ransone seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0. Mr. Carlson would like hours of operation to be 9:30 P.M. – 5:30 P.M. Monday – Saturday and 12:00 P.M. to 4:00 P.M. on Sunday. Ralph Ransone made a motion to approve the 9 A.M. to 8 P.M. hours of operation, 7 days of the week, with all other existing conditions in effect. Mr. Carlson would like to extend a sidewalk from the other businesses to along the front of his business, to erect a picket fence, and to have more lighting. Garry seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Minutes and Treasurer's Report:

Robert Pittman made a motion to approve the minutes and Kathleen Pollard seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Norm Mosher made a motion to approve the treasurer's report and Ralph Ransone seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Zoning Administrator: No report.

Planning Commission: No additional report.

VIA/ICC:

The Mayor announced that several new men would be helping the men on the VIA/ICC projects.

2003 Calendar: Ralph Ransone made a motion to approve the 2003 calendar of the VIA/ICC and Robert Pittman seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Lancaster County Chamber of Commerce Membership:

Robert Pittman made a motion to renew the Chamber of Commerce annual membership at a fee of \$75.00. Kathleen Pollard seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Executive Session:

Norman Mosher read the following motion: I hereby move that the Town Council of the Town of Irvington go into closed or executive session, to consult with legal counsel pertaining to probable litigation concerning the ditch between King Carter Drive and Chesapeake Drive, and regarding specific legal matters requiring the provisions of legal advice, pursuant to *Code of Virginia*, Section 2.1-371.1A. (7). Garry seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Robert Pittman made a motion to come out of executive session. Ralph Ransone seconded the motion. Vote – Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.

Kathleen Pollard made the following motion for certification: I move that there be a roll call or other recorded vote, to be included in the minutes of this meeting, certifying that (1) only public business matters lawfully exempt from public meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed session; and (2) only such public business as was identified in the motion to convene a closed session was heard, discussed or considered." Norman Mosher seconded the motion. Roll Call: I, Robert Pittman, so certify.

I, Kathleen Pollard, so certify.
I, Garry Luckham, so certify.
I, Ralph D. Ransone, so certify.
I, Norman Mosher, so certify.

There was no action taken in the executive session.

Adjournment:

Ralph Ransone made a motion to adjourn the meeting. Robert Pittman seconded the motion.
Vote— Yea: Luckham, Mosher, Pittman, Pollard, and Ransone. Nay: 0.


Alexander McD. Fleet, Mayor

**Irvington Town Council
Regular and Public Meeting
January 9, 2003**

The regular and public meeting of the Irvington Town Council was held at the Irvington Town Office on January 9, 2003 at 7:30 P.M.

Present:

Mayor	Alexander McD. Fleet
Vice-Mayor	Ralph Ransone
Council	Garry Luckham Robert Pittman Kathleen Pollard
Zoning Administrator	John C. Fitzpatrick

Absent:

Council	William H. Evans, III Norman Mosher
Legal Counsel	Matson C. Terry, II

Visitors:

C. Jeffers Schmidt
William E. Westbrook, Jr.

Guest:

Barbara Whitbeck

The Mayor opened the meeting with prayer. He thanked attendees for their expressions of kindness.

Kathleen Pollard made a motion to go into public hearing and Ralph Ransone seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0.

Public Hearing:

Tax Map 33- Parcel 317, Chases' Cove Road: Mr. Fitzpatrick said that the notices were not sent to the neighbors but were published. He said that he had personally contacted the neighbors (except Mr. Neal and Mr. Schmidt, who were at the Planning Commission Public Hearing) to inform them. In addressing the health issues raised by Mr. Schmidt at the Planning Commission Public Hearing, he said that the approval by the Town Council will be contingent upon the health department's approval. The septic system sites have been approved by Gary Grabbe, who has made his report to the County. Mr. Schmidt addressed his concerns about the subdivision on Chases Cove: (1) Lack of Notice: Mr. Schmidt reiterated the State requirement for notices and recommended that the Town's notice requirement be in line with the State Code. (2) Traffic: Mr. Schmidt said the private 20' roads were not built to carry 3 or more houses' worth of cars. He and Mr. Neal currently maintain the 20' private Chases Cove Road and advises that the Town Ordinance address ingress and egress. (3) Safety: He is concerned about the children, dogs, and horses living near the Road. (4) Health: The property would not carry standard septic systems. It may be able to

carry modern engineered systems. He considers three septic systems to be too much on a natural draining area to the Creek. The plan is to pump to a remote system. The County requires that there be prior health department approval submitted before considering a subdivision. He thinks that the Council should consider requiring prior health department approval submitted before considering a subdivision. Mr. Westbrook said that he does not think there is a problem with traffic as he has never seen a child. He said there are a few potholes in the road. He said that Alex Neal has asked him to help with maintaining the road and he will if he does not sell the property. He said that the puriflow system is better than the conventional system and the lot going to the water has either a septic system site or perk site on it. The Zoning Administrator said that the Town Ordinance does not require a State maintained road, but should the road be taken over by the State, then it must meet State specifications. Gary Grabbe is approved by the County to give approval for perk sites.

Robert Pittman made a motion to come out of public hearing. Kathleen Pollard seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0.

The Mayor told Mr. Schmidt that he and the Zoning Administrator had previously discussed roads to subdivisions and will probably bring recommendations to the Council in the future.

Garry Luckham asked if Randy Stephens' property had been subdivided. The Zoning Administrator stated that there had been a boundary line adjustment. The Mayor asked the status of the existing house on the property and Mr. Westbrook said that he plans to restore the house. The Zoning Administrator said that in a simple sub-division such as this, the Planning Commission and the Town Council have the authority to waive the subdivision requirements. Mr. Schmidt said that the State allows that waiving requirements only when waiving requirements for family members. The Zoning Administrator said that the Town Ordinance also allows waiving the requirements when doing it for immediate neighbors.

Robert Pittman made a motion to accept the subdivision because it was in line with the Town Subdivision Ordinance and said maybe the Ordinance needs further consideration. Garry Luckham seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0.

Turlington/Rowe Property, Tax Map 33 – Parcel 296: Kathleen Pollard made a motion to go into public hearing and Garry Luckham seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0. The Zoning Administrator stated that the front parcels (each less than an acre) of this property were grandfathered. Mr. Westbrook is applying to subdivide Parcel 296 into two parcels (Parcels 296A and 296 B) each of which would be at least an acre. (The Chesapeake Act will then be in effect for these subdivided parcels.) The Zoning Administrator notified each of the neighbors by phone. Notices were published. The house on Parcel 298 (one of the front grandfathered parcels) will remain. Robert Pittman made a motion to come out of public hearing and Ralph Ransone seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0. The cemetery will either be left or the graves will be moved. Mr. Westbrook is trying to contact family members. Garry Luckham made a motion to approve the subdivision and Kathleen seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0.

The Mayor told Jeff Schmidt that his remarks will be taken into consideration.

Minutes and Treasurer's Report:

Ralph Ransone made a motion to approve the minutes with the spelling correction of the word "feet". Robert Pittman seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0.

Garry Luckham made a motion to approve the treasurer's report and Kathleen Pollard seconded the motion. Vote – Luckham, Pittman, Pollard, and Ransone. Nay: 0.

Zoning Administrator:

Fees: Mr. Fitzpatrick told the Town Council if they were going to change the fee schedule, that it would have to be done by Ordinance Change and that would require notices published and a public hearing. The Mayor instructed the Council members to study the proposed changes and comparisons that they had been presented and it would be discussed at another meeting.

Ditch: The Zoning Administrator said that the decision made in the meeting of the engineers and VDOT engineers was that it would be best to return the ditch to the way it was originally and have some swales and rip rap. He would like to have the work completed as quickly as possible.

Planning Commission Report:

Sydnor: Robert Pittman stated that Mr. Morrison had asked Mr. Fitzpatrick to contact Sydnor to ask their plans for expansion of the water system as the number of homes in Irvington increases.

Old Business:

Christmas Decorations: Christmas decorations are to be removed on Sunday, January 12, 2003. One of the three lanterns that fell during the holidays is missing.

New Business:

Mrs. Crockett's Resignation: The Mayor read Mrs. Crockett's letter of resignation. Ralph Ransone made a motion to accept her letter of resignation with regrets and that a resolution be prepared. Garry Luckham seconded the motion. Vote – Yea: Luckham, Pittman, Pollard, and Ransone. Nay: 0.

Ditch: Mr. Luckham made a motion to pay for the engineering services for the ditch. Robert Pittman seconded the motion. Vote – Yea: Luckham, Pittman, and Pollard. Nay: 0. Abstain: Ransone.

Mayor: The Mayor thanked everyone for everything during his recent eye problem.

Adjournment:

Ralph Ransone made a motion to adjourn the meeting and Garry Luckham seconded the motion.


Alexander McD. Fleet, Mayor

**RESOLUTION
OF
THE TOWN COUNCIL
OF
THE TOWN OF IRVINGTON, VIRGINIA
ADOPTED JANUARY 1, 2003**

WHEREAS, Doris D. Crockett, has served as Clerk of the Town of Irvington, Virginia, since October 1983; and

WHEREAS, Doris D. Crockett, has chosen to retire as the Town Clerk; and

WHEREAS, during her tenure as the Town Clerk, Doris D. Crockett, has performed her duties as Clerk of the Town Council with kindness and courtesy; and

WHEREAS, Doris D. Crockett, has done so much more for the Town of Irvington beyond her obligations as a Clerk of the Town Council;

NOW, THEREFORE, upon motion duly made, seconded, and unanimously carried, it was

RESOLVED, that the Town Council of the Town of Irvington hereby acknowledges, with great gratitude, the many contributions of Doris D. Crockett, to the Town of Irvington during her tenure as Clerk of the Town Council of the Town of Irvington, Virginia; her genuine love and concern for the Town and its citizens amply demonstrated by her Halloween treats and Easter baskets for neighborhood children and her allowing Crockett's Hill to be the town winter sports center;

FURTHER RESOLVED, that a copy of this resolution be presented to Doris D. Crockett, and that a copy be spread upon the minutes of the Town Council.

Witness the following signatures:

VIRGINIA: IN THE CIRCUIT COURT OF LANCASTER COUNTY

**RE: APPOINTMENT OF MEMBERS OF THE BOARD OF ZONING
APPEALS FOR THE TOWN OF IRVINGTON**

ORDER

WHEREAS, it appears to the Court that there is a vacancy on the Board of Zoning Appeals for the Town of Irvington; and

WHEREAS, it is appropriate to appoint Richard C. Newlon, as a member of the Town of Irvington Board of Zoning Appeals; and

WHEREAS, the term of Shirley B. Crockett as a member of the Board of Zoning Appeals for the Town of Irvington expired on May 8, 2003; and

WHEREAS, it is appropriate to reappoint Shirley B. Crockett as a member of said Board; and

WHEREAS, pursuant to *Code of Virginia*, 1950, as amended, Section 15.2-2308, the Town Council for the Town of Irvington, Virginia, has concurred in the said appointment of Richard C. Newlon, and in the said reappointment of Shirley B. Crockett, by the Chief Judge of the Fifteenth Judicial Circuit;

It is, therefore, ADJUDGED, ORDERED and DECREED as follows:

1. That Richard C. Newlon be and he hereby is appointed as a member of the Board of Zoning Appeals for the Town of Irvington, for a five year term beginning on May 8, 2002, which term expires on May 8, 2007.

2. That Shirley B. Crockett, be, and she hereby is reappointed as a member if the

FILED

JUL 7 2003

Judge: C. Kennedy

Board of Zoning Appeals for the Town of Irvington, for a five year term beginning May 8, 2003, which term expires on May 8, 2008.

2. That before assuming the duties of the office, Richard C. Newlon and Shirley B. Crockett shall each appear before the Clerk of this Court to take oath as prescribed by law.

4. That the Clerk of this Court shall deliver an attested copy of this order to Richard C. Newlon, Shirley B. Crockett and to Matson C. Terry, II, Attorney for the Town of Irvington.

ENTER-LAW

6/23/, 2003

VERALL

WE ASK FOR THIS:

Matson C. Terry, II, Esq.
c/o Hubbard, Terry & Kopcsak, P.C.
Counsel for the Town of Irvington
293 Steamboat Road
P.O. Box 340
Irvington, Virginia 22480
VSB # 15296

By Matson C. Terry, II
Of Counsel

A TRUE COPY

TESTE: CONSTANCE L. KENNEDY, CLERK

BY Debra L. Mungford

DEPUTY CLERK

LANCASTER COUNTY CIRCUIT COURT

F:\Users\MT\Irvington\IRV.BZA2.wpd

Certified copies mailed/delivered: 07/08/03

Richard C. Newlon

Shirley B. Crockett

Matson C. Terry, II, Atty.

**Commonwealth of Virginia,
County of Lancaster, to-wit:**

I, RICHARD C. NEWLON do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as a member of the Board of Zoning Appeals for the Town of Irvington for a five (5) year term beginning May 8, 2002 and ending May 8, 2007, according to the best of my ability, (So help me God.)

Richard C. Newlon

I, Constance L. Kennedy, Clerk of the Circuit Court in and for the County of Lancaster, in the Commonwealth of Virginia, do certify that Richard C. Newlon this 9th day of July, 2003, personally appeared before me in my County aforesaid and took and subscribed the above oath.

CONSTANCE L. KENEDY

Clerk

Diane H. Mumford

Deputy Clerk