



COMMISSION ON OPEN AND TRANSPARENT GOVERNMENT

21 Main Street

Monday, October 06, 2025 at 6:30 PM

AGENDA

Possible additions to the agenda and related materials are not set forth herein.

Times set forth are approximate and may be adjusted as necessary.

I. WORKSESSION - 6:30PM

- A. Approval of the Agenda
- B. Approval of the Minutes
- C. Report of the Chairman
- D. Report from the Town Attorney
- E. Report from the Special Counsel
- F. Mr. Gagnon's Resolution Request

A. NEW BUSINESS.

B. UNFINISHED BUSINESS.

C. ADJOURNMENT.



COMMISSION ON OPEN AND TRANSPARENT GOVERNMENT

21 Main Street

Monday, June 23, 2025 at 6:30 PM

MINUTES

AN OPEN MEETING OF THE COMMISSION ON OPEN AND TRANSPARENT GOVERNMENT OF WARRENTON, VIRGINIA, WAS HELD ON JUNE 23rd, 2025, AT 6:30PM

Work Session

PRESENT

Councilman and Vice Mayor William Semple, Chair; Mr. Kenneth Alm, Vice Chair; Councilman Eric Gagnon, Secretary; Mr. David Norden; Mr. Mike Kokoszka; Mr. Patrick Corish, Town Attorney, Mr. Whitson Robinson, Special Counsel Mr. Chap Petersen, Town Attorney

ABSENT

N/A

The minutes laid out below will be a brief recap of the agenda items. For more in-depth information, please see recorded video at: [\[LINK HERE\]](#)

I. CALL THE MEETING TO ORDER 6:30 PM

The meeting opened at 6:31 PM by Chairman Semple who declared a quorum present.

APPROVAL OF THE AGENDA.

Motion was put forth by Chairman Semple to amend the proposed agenda to add a presentation from the Town Manager

Commissioner Gagnon suggested adding a to discussion and vote for the Commission's Town Records Review Plan to the agenda.

The motion to amend the agenda was made by Commissioner Alm.

The motion was seconded by Chairman Semple

The vote was as follows:

Ayes: Semple, Gagnon, Norden, Alm, Kokoszka

Nays: None

Abstention: None

Absent: N/A

APPROVAL OF MEETING MINUTES

March 27th, 2025, Meeting of the Warrenton Commission on Open and Transparent Government

Motion put forth to approve the March 27th, 2025 meeting minutes by Commissioner Alm.

Seconded by Commissioner Kokoszka.

The vote was as follows:

Ayes: Semple, Gagnon, Norden, Alm, Kokoszka

Nays: None

Abstention: None

Absent: N/A

BUDGET REVIEW

Chairman Semple made introductory remarks, indicating that the Town Council had appropriated \$60,000 to underwrite the Special Counsel's investigation, including the retention of an IT expert, with \$50,000 of this amount to be applied to the Special Counsel's work, and \$10,000 to be applied to the work of the IT expert.

Chairman Semple indicated that the Town had received invoices to date from the Special Counsel totaling approximately \$22,500 through the end of April, further indicating that no invoices had yet been received for May and June, and asked the Special Counsel, Whit Robinson, to provide more information.

Special Counsel Robinson responded by saying that he had not billed for May and June because he had unexpectedly encountered a lack of cooperation preventing him from obtaining IT access to Town records, and Mr. Robinson suspended billing due to the amount of time he was spending on this matter. Mr. Robinson indicated he still thought he could move forward with his work within the budget allowed, including the time he has donated to the matter.

Chairman Semple asked Special Counsel Robinson if he still believed that he could complete his tasks as Special Counsel within the amount allocated, and Mr. Robinson replied that this was certainly his intent, and if necessary he would come back to the Commission and Council, but indicated that, outside of court costs, he would continue to dedicate his time to Commission matters and stay within the budget, provided he received cooperation from others.

Commissioner Alm asked if there were invoices from May or June that already existed, and Mr. Robinson replied that no charges were billed, but he was keeping records of non-billable time spent on Commission matters.

Commissioner Alm asked Mr. Robinson if the IT expert retained by Mr. Robinson had billed any charges, and Mr. Robinson replied that the IT expert had billed for his work, but those charges were significantly under the amount budgeted.

Chairman Semple asked Mr. Robinson if he would continue to record and disclose his non-billable time spent, and Mr. Robinson said he would continue to do so.

INVESTIGATION UPDATE

Special Counsel Robinson provided the investigation update. Reading from a written statement, he opened by stating that while he previously said he believed his investigation process would be completed in a relatively short time, he did not anticipate the delays encountered in gaining access to the Town servers. Mr. Robinson said he believed the plans currently before the Commission would help alleviate these delays.

Mr. Robinson described his research into data center projects in Prince William County, and indicated he found overlap between personnel and procedures between this jurisdiction and Warrenton. Mr. Robinson stated that records request letters may be sent to individuals on this matter, but it would be necessary to review Town server records before sending these letters, or sending them at all.

Mr. Robinson said he would be producing a report describing proposed changes to Town zoning processes based on his findings. He provided a few examples, including suggestions to prevent Town Council members from meeting with developers ahead of the developer's submission of plans to the Town, interfering with the Planning Commission process, and respecting the Town staff's role in evaluating new applications.

Mr. Robinson also stated that personal e-mails were also being used by Town elected officials to conduct Town business, instead of government e-mails, and Town elected officials were sending e-mail messages to other elected officials while excluding others.

Mr. Robinson stated for the record that he would not use his position to target any member of the Town staff, and said the person or persons who may be creating this impression must stop doing so.

Commissioner Alm asked Mr. Robinson to further expand on his remarks concerning his prior 2016 statement on the matter of developer relationships with Town Council and Town Staff, and Mr. Robinson provided this prior written statement to the Commission.

Report from the Town Attorney

Town Attorney Chap Petersen provided the Town Attorney's Report. Mr. Petersen indicated that the discovery process had a difficult start in the review of the Town's records. He reiterated

that the Town owns its own records, and has a presumptive right to view these records, subject to FOIA restrictions. Mr. Petersen stated that there were issues with Town staff concerning protocols for providing large-scale collections of e-mail messages, and stated that everyone was trying to find a balance to accomplish this effort.

Mr. Petersen provided additional remarks concerning Mr. Robinson's statement on developer interaction with Town elected officials and staff, and indicated that guidelines could be developed to address this issue.

Commissioner Alm provided suggestions for additions to these proposed guidelines.

Chairman Semple pointed out the differences between developer relationships in a small town compared to larger jurisdictions.

Mr. Robinson commended the Commissioners for this discussion, and expressed hope that these suggestions would be made part of future guidelines.

Discovery Plan Review

Commissioner Gagnon presented an overview of the Commission's proposed Discovery Plan and Town Records Review Plan, from a printed presentation provided to the Commission.

Commissioner Norden, discussing the previous FOIA controversy involving improper withholding of Town e-mails, asked if the Special Counsel and Town Attorney, instead of the Town Clerk or Town staff, would determine whether or not e-mails could be released.

Mr. Petersen stated that this was correct, adding that FOIA protections govern public release of documents, and whether or not records were exempt from FOIA, the Commission could review those records if they are relevant.

Mr. Semple asked for clarification that queries made to the Town's e-mail database must be relevant.

Special Counsel Robinson replied that he was not interested in finding information that was not relevant to the scope of the Commission, and if there is a question of relevance for a Town record, then Mr. Robinson and Mr. Petersen would decide the issue, and in a worst-case scenario the issue could be taken back to the Commission or the Council for a decision.

Commissioner Norden stated, in clarification to his earlier question, that he wanted to make sure the Town Clerk would not be the one making decisions as to inclusion or relevancy of Town documents.

Mr. Petersen replied that both he and Mr. Robinson would be the ones making these decisions, and not the Town Clerk.

Town Manager Frank Cassidy provided additional remarks, noting that this has been a learning process for the Town staff. He described the compliance requirements for accessing Town records, and expressed concern over the volume of records involved in this process. Mr. Cassidy

stated that if there was a doubt about an issue related to Town records, the Town Attorney would be consulted on the matter.

Commissioner Gagnon stated that the intent of the proposed Town Records Review Plan is to provide the IT expert with open and complete access to Town e-mails, and that once the IT expert has received these e-mails, he would then be able to conduct keyword searches.

Mr. Cassidy replied that although unfettered access to Town e-mail records was not possible without breaching Town IT security systems, he indicated that the Commission does have full access to these records, provided the Commission's IT expert works with the Town's IT director.

Commissioner Kokoszka pointed out that, given the complexity and diversity of the three land use applications being reviewed, it would be difficult for someone to determine relevancy of these records.

Chairman Semple replied that the purpose of the Commission was to produce a report to consider where processes broke down and the influences that were not consistent with an open process, and that the Commission should stay within its scope.

Commissioner Alm asked if all the parties involved in this process were on board with this plan.

Mr. Robinson replied that he agreed to the plan.

Mr. Cassidy replied that he was satisfied with the current status, but could not guarantee that there would not be problems in the future that would need to be resolved.

Mr. Robinson asked for a vote on the proposed plans to solidify them.

Commissioner Gagnon moved for a vote to discuss and approve the Commission Discovery Plan and Town Records Review Plan as drafted.

Seconded by Commissioner Norden

Mr. Cassidy asked for a discussion with the Town staff to resolve security issues concerning the proposed Commission plans.

Mr. Robinson replied that the two plans were reviewed and vetted by the Town Attorney

Chairman Semple proposed a substitute motion to divide the motion into a vote on the two Commission plans separately, with an initial vote on the Discovery Plan.

Commissioner Alm seconded the motion.

Chairman Semple stated that the members of the Commission had only just seen the plan documents.

Commissioner Alm asked if a decision could be made on the Discovery Plan, and for the Commission to meet in one or two weeks to vote on the Town Records Review Plan separately.

Commissioner Norden said he thought that such a delay would not be necessary, that he has had adequate time to review both plan documents, and asked Mr. Petersen if he had the opportunity to review the plan documents.

Mr. Petersen indicated he had no problems with the plan, except for the term "full access" used in plan, but indicated that any issues in this regard could be worked out between him and Mr. Robinson.

Mr. Robinson replied that, if there were any issues, such as access to criminal records information, these could be worked out between him and Mr. Petersen.

The vote to approve the Discovery Plan as a separate document was as follows:

Ayes: Alm, Norden, Semple

Nays: Gagnon, Kokoszka

Abstention: N/A

Absent: N/A

Commissioner Gagnon moved to vote to accept the Town Records Review Plan as drafted.

Seconded by Commissioner Kokoszka

Chairman Semple entertained a motion to postpone this vote pending another Commission meeting, either immediately, or in the next quarter.

The motion did not receive a second, and failed.

Chairman then called for discussion on the main motion to vote on the Town Records Review Plan.

Commissioner Norden expressed support for the motion, indicating he wanted to see the process move along, and that Mr. Petersen could address any issues concerning access.

Commissioner Gagnon added that the Town Records Review Plan was the prerequisite to the external records request process from third parties, and that any delay in approval of this plan would mean a delay in this external records request step, and if there are any issues, those issues can be worked out between the Town Attorney and Special Counsel.

The vote to approve the Town Records Review Plan was as follows:

Ayes: Kokoszka, Gagnon, Alm

Nays: Semple, Alm

Abstention: N/A

Absent: N/A

UNFINISHED BUSINESS.

There was no unfinished business

ADJOURNMENT.

With no further business, this meeting was adjourned at 8:00 PM on Monday, June 23rd, 2025.

I hereby certify that this is a true and exact record of actions taken by the Town Council of the Town of Warrenton on June 23rd, 2025.

Eric Gagnon
Secretary

Attachments:



COMMISSION ON OPEN AND TRANSPARENT GOVERNMENT

21 Main Street

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ABSENT

N/A

The minutes laid out below will be a brief recap of the agenda items. For more in-depth information, please see recorded video at: [\[LINK HERE\]](#)

I. CALL THE MEETING TO ORDER 6:30 PM

The meeting opened at 6:31 PM by Chairman Semple who declared a quorum present.

APPROVAL OF THE AGENDA.

Motion was put forth by Chairman Semple to amend the proposed agenda to add a presentation from the Town Manager to discuss the town's efforts to increase transparency.

Commissioner Gagnon suggested adding a discussion and vote approval of the Commission's Town Records Review Plan to the agenda.

The motion to amend the agenda was made by Commissioner Alm.

The motion was seconded by Chairman Semple

The vote was as follows:

Ayes: Semple, Gagnon, Norden, Alm, Kokoszka

Nays: None

Abstention: None

Absent: N/A

APPROVAL OF MEETING MINUTES

March 27th, 2025, Meeting of the Warrenton Commission on Open and Transparent Government

Motion put forth to approve the March 27th, 2025 meeting minutes by Commissioner Alm.

Seconded by Commissioner Kokoszka.

The vote was as follows:

Ayes: Semple, Gagnon, Norden, Alm, Kokoszka

Nays: None

Abstention: None

Absent: N/A

BUDGET REVIEW

Chairman Semple made introductory remarks, indicating that the Town Council had appropriated \$60,000 to underwrite the Special Counsel's investigation, including the retention of an IT expert, with \$50,000 of this amount to be applied to the Special Counsel's work, and \$10,000 to be applied to the work of the IT expert.

Chairman Semple indicated that the Town had received invoices to date from the Special Counsel totaling approximately \$22,500 through the end of April, further indicating that no invoices had yet been received for May and June, and asked the Special Counsel, Whit Robinson, to provide more information.

Special Counsel Robinson responded by saying that he had not billed for May and June because he had unexpectedly encountered issues preventing him from obtaining IT access to Town records, which caused him to suspend his billing, but he said believed those issues had been resolved. Mr. Robinson indicated he he could move forward with his work within the budget allowed, including the time he donated.

Chairman Semple asked Special Counsel Robinson if he still believed that he could complete his tasks as Special Counsel within the amount allocated, and Mr. Robinson replied that this was certainly his intent, and if necessary he would come back to the Commission and Council, but indicated that, outside of court costs, he would continue to dedicate his time to Commission matters and stay within the budget.

Commissioner Alm asked if there were invoices from May or June that already existed, and Mr. Robinson replied that no charges were billed, but he was keeping records of non-billable time spent on Commission matters.

Commissioner Alm asked Mr. Robinson if the IT expert retained by Mr. Robinson had billed any charges, and Mr. Robinson replied that the IT expert had billed for his work, but those charges were significantly under the amount budgeted.

Chairman Semple asked Mr. Robinson if he would continue to record and disclose his non-billable time spent, and Mr. Robinson said he would continue to do so.

INVESTIGATION UPDATE

Special Counsel Robinson provided the investigation update. Reading from a written statement, he opened by stating that while he previously said he believed his investigation process would be completed in a relatively short time, he did not anticipate the delays encountered in gaining access to the Town servers. Mr. Robinson said he believed the plans currently before the Commission would now work. The review of the town's files would include all files and correspondence in accordance with the plan. Robinson thanked Stephen Clough, Town Clerk, for working diligently with Mr. Sammons [the IT Expert] for his efficiency and professionalism.

Mr. Robinson described his research into data center projects in Prince William County. He said he focused on Prince William County because he found overlap between personnel and procedures between that jurisdiction and Warrenton.

Mr. Robinson stated that records request letters would be sent to outside entities and individuals requesting information, but if they were not cooperative, he would discuss the legal ramifications with the town attorney to determine how best to move forward with subpoenas and depositions, if at all. Robinson said it would be necessary to review Town server records before sending these letters.

Mr. Robinson said at the end of the process would produce a report describing proposed changes to Town zoning processes based on his findings. He provided a few examples, including suggestions to prevent Town Council members from meeting with developers ahead of the developer's submission of plans to the Town, interfering with the Planning Commission process, and respecting the Town staff's role in evaluating new applications.

Mr. Robinson also stated that personal e-mails were also being used by Town elected officials to conduct Town business, instead of government e-mails, and Town elected officials were sending e-mail messages to other elected officials while excluding others.

Mr. Robinson stated for the record that he would not use his position to target any member of the Town staff, and said the person or persons who may be creating this impression must stop doing so.

Commissioner Alm asked Mr. Robinson to further expand on his remarks concerning his prior 2016 statement on the matter of developer relationships with Town Council and Town Staff, and Mr. Robinson provided this prior written statement to the Commission.

Report from the Town Attorney

Town Attorney Chap Petersen provided the Town Attorney's Report. Mr. Petersen indicated that the discovery process had gotten off to a bit of a clunky start in the review of the Town's records, for which perhaps he would take some of the blame. He stated that the Town owns its own records, and has a presumptive right to view these records, subject to FOIA restrictions, [that is] whether they have to do with personal business, criminal records, tax records, things of that nature, attorney client privilege. There has to be a way to exclude and exempt those.

Mr. Petersen stated that there had been issues with Town staff concerning protocols that they wanted to see observed that might lead to complications if we just allowed a wholesale turnover of e-mail messages. He stated that everyone has been struggling to find a balance to accomplish this effort, and hopefully at the end of the meeting, everyone would get there.

Mr. Petersen provided additional remarks concerning Mr. Robinson's statement on developer interaction with Town elected officials and staff, and indicated that guidelines could be developed to address this issue. He said that citizens had a first amendment right to petition their government, but there should be a process that is more transparent.

Commissioner Alm provided suggestions for additions to these proposed guidelines. Mr. Petersen in response stated that it's a question of how one can protect the town, balancing the understandable human nature to get to know people, but still having the procedural guidelines in place.

Chairman Semple pointed out the differences between developer relationships in a small town compared to larger jurisdictions. He pointed to procedures in place, such as the Town's Code of Ethics, as a mechanism. He also mentioned the significant support from the Virginia Municipal League regarding the behavior that leads to a strong governing model.

Mr. Robinson commended the Commissioners for this discussion and expressed hope that these suggestions would be made part of future guidelines.

Discovery Plan Review

Commissioner Gagnon presented an overview of the Commission's proposed Discovery Plan and Town Records Review Plan, from a printed presentation provided to the Commission. In discussing the Discovery Plan, he noted that the presumption was, as the Town Attorney had indicated, that the Town had a right to review its own records, with public release subject to Freedom of Information Act and state and federal laws as applicable.

Mr. Gagnon stated that in the event of a dispute over whether one piece of information would be included or not, the town attorney shall determine whether the information would be included as part of the Commission's work produce and discovery process. The ultimate arbiter of any dispute would be the Town Council, who would also be subject to FOIA, state and federal laws.

All information gathered and processed by the Special Counsel would be reviewed by the sitting commission, council members and the town attorney and forwarded to the commission for review, disclosure and use in the Commission's final report.

Mr. Gagnon then reviewed the town records review plan, designed to be an addendum to the Discovery Plan. The intention was to provide for the widest possible access to all town records responsive to the Commission, Special Counsel and designated IT Expert requests.

Mr. Gagnon stated that full access to town records was required to ensure a thorough discovery process and final work product that maintains public confidence in the Commission's work.

Mr. Gagnon stated that initially, open access to all town records as described would be provided and selected based on their relevance to one of the three land use applications. Mr. Gagnon then discussed in detail the actual review process, which would be a two-stage process. The first stage would be the review process, preferably by the IT expert, or alternatively by the town clerk, who is the custodian of the town records.

The IT expert would then conduct a review of all the emails that were selected either by him or by the town clerk. This review would include individual emails, batch collection of emails, and automated text search of large bodies of emails. There would be a lot of emails to go through, and there would be a variety of ways of doing that. The IT expert would only select those emails that were relevant to the three land use applications,

Mr. Gagnon then described additional records, including town server backups, call logs, voicemails, text messages and other information, e.g., town personnel records.

Because these are potentially sensitive, review of those types of records would be subject to prior review and approval of the town attorney as well as additional town records as needed. And those would also be subject to prior approval by the town attorney

Commissioner Norden had a couple of questions. He said that he wanted to make sure on the record that, discussing the previous FOIA controversy involving improper withholding of Town e-mails, the council and the town attorney were part of a process to make sure that they're determining what has to be withheld..

In other words, Mr. Clough would not have to be the person responsible for saying whether he thinks [a particular document] was protected under FOIA, but that it would be reviewed by Council, Special Counsel, and the Town Attorney as part of the process, and they make the final determination as to what can be seen and what cannot be seen.

Mr. Petersen stated that he thought that was correct, but drew a distinction in that FOIA had to do with public disclosure, adding that FOIA protections govern public release of documents, and whether or not records were exempt from FOIA, the Commission could review those records if they were relevant.

Mr. Semple asked for clarification regarding what queries could be made of the database. He stated that the queries themselves had to be related to the land use applications.

Special Counsel Robinson agreed,, stating that he was not interested in finding information that was not relevant to the scope of the Commission, and if there were a question of relevance for a Town record, then Mr. Robinson and Mr. Petersen would decide the issue, and in a worst-case scenario the issue could be taken back to the Commission or the Council for a decision. He stated that Mr. Clough [the Town Clerk] and Mr. Sammons [the IT Expert] appear to be working well together.

Commissioner Norden stated, in clarification to his earlier question, that he wanted to make sure the Town Clerk would not be the one making decisions as to inclusion or relevancy of Town documents.

Mr. Petersen replied that both he and Mr. Robinson would be the ones making these decisions, and not the Town Clerk.

Town Manager Frank Cassidy noted that this has been a learning process for the Town staff. He described the compliance requirements for accessing Town records and expressed concern over the volume of records involved in this process. Mr. Cassidy stated that if there was a doubt about an issue related to Town records, he would expect that the Town Attorney, working with the Special Counsel, would make sure that whatever was distributed, it would be relevant to the case.

Mr. Cassidy discussed one request that encompassed somewhere around a quarter of a million emails. So how those emails are accessed, how one manages were some of the questions.

Mr. Cassidy stated that the town has policies and procedures in place to do exactly what [the Commission] was trying to accomplish. And that is transparency, truth, honesty, ethical behavior. He was not going to violate any aspect of those. He asked that the Commission respect the Town's processes and policies. But if there were a question, then the staff would involve the town attorney.

Commissioner Gagnon stated that the intent of the proposed Town Records Review Plan is to provide the IT expert with open and complete access to Town e-mails, and that once the IT expert has received these e-mails, he would then be able to conduct keyword searches.

Mr. Cassidy replied that unfettered access to Town e-mail records was not possible without breaching Town IT security systems, but he indicated that the Commission did have full access to these records, provided the Commission's IT expert worked with the Town's IT director. Mr. Cassidy said that it was just the idea that the Town hand everything over that was part of the contention.

Mr. Semple said that he thought all of these details had been worked out, and that the permission given was to be able to query the database, not to put it on a drive and take it up to Maryland. He said that he thought that point had already been established.

Commissioner Kokoszka pointed out that, given the complexity and diversity of the three land use applications being reviewed, it would be difficult for someone to determine relevancy of these records.

Chairman Semple replied that the purpose of the Commission was to produce a report to consider where processes broke down and the influences that were not consistent with an open process, and that the Commission should stay within its scope.

Commissioner Alm asked if all the parties involved in this process were on board with this plan.

Mr. Robinson replied that he agreed to the plan.

Mr. Cassidy replied that he was satisfied with the current status but could not guarantee that there would not be problems in the future that would need to be resolved.

Mr. Robinson asked for a vote on the proposed plans to solidify them.

Commissioner Gagnon moved for a vote to discuss and approve the Commission Discovery Plan and Town Records Review Plan as drafted.

Seconded by Commissioner Norden

Mr. Cassidy asked for a discussion with the Town staff to resolve security issues concerning the proposed Commission plans.

Mr. Robinson replied that the two plans were reviewed and vetted by the Town Attorney.

Chairman Semple proposed a substitute motion to divide the motion into a vote on the two Commission plans separately, with an initial vote on the Discovery Plan.

Commissioner Alm seconded the motion.

Chairman Semple stated that the members of the Commission had only just seen the plan documents.

Commissioner Alm asked if a decision could be made on the Discovery Plan, and for the Commission to meet in one or two weeks to vote on the Town Records Review Plan separately.

Commissioner Norden said he thought that the Commission should take only two days to consider the second plan. He stated that he had reviewed the plan, and he worked for a living. So he didn't know why it hadn't been reviewed, Mr. Norden asked Mr. Petersen if he had the opportunity to review the plan documents.

Mr. Petersen indicated he had no problems with the plan, except for the term "full access" used in plan, and would have used the term "access," but indicated that any issues in this regard could be worked out between him and Mr. Robinson.

Mr. Robinson replied that, if there were any issues, such as access to criminal records information, these could be worked out between him and Mr. Petersen. If there was a question of relevance, Mr. Petersen certainly could weigh in.

The vote to approve the Discovery Plan as a separate document was as follows:

Ayes: Alm, Norden, Semple

Nays: Gagnon, Kokoszka

Abstention: N/A

Absent: N/A

Commissioner Gagnon moved to vote to accept the Town Records Review Plan as drafted.

Seconded by Commissioner Kokoszka

Chairman Semple entertained a motion to postpone this vote pending another Commission meeting, either immediately, or in the next quarter.

The motion did not receive a second and failed.

Chairman then called for discussion on the main motion to vote on the Town Records Review Plan.

Commissioner Norden expressed support for the motion, indicating he wanted to see the process move along, and that if Mr. Petersen had heartburn over one word, they could work that out, Adopting the plan would just keep the ball moving forward, He stated that he didn't think there was enough with the document from what Mr. Petersen was say that any issue could not be worked out quickly and easily between him and Mr. Robinson

Commissioner Gagnon added that the Town Records Review Plan was the prerequisite to the external records request process from third parties, and that any delay in approval of this plan would mean a delay in this external records request step, and if there are any issues, those issues can be worked out between the Town Attorney and Special Counsel.

The vote to approve the Town Records Review Plan was as follows:

Ayes: Kokoszka, Gagnon, Alm

Nays: Semple, Alm

Abstention: N/A

Absent: N/A

UNFINISHED BUSINESS.

There was no unfinished business

ADJOURNMENT.

With no further business, this meeting was adjourned at 8:00 PM on Monday, June 23rd, 2025.

I hereby certify that this is a true and exact record of actions taken by the Town Council of the Town of Warrenton on June 23rd, 2025.

Eric Gagnon
Secretary

Attachments:

January 14th, 2025
Town Council
Regular Meeting
RES-25-01-08

**RESOLUTION TO ESTABLISH WARRENTON COMMISSION
ON OPEN AND TRANSPARENT GOVERNMENT**

WHEREAS, the Town Council of Warrenton is a governing body of a municipal corporation in the Commonwealth of Virginia pursuant to Subtitle I and Subtitle 2 of Virginia Code §§15.2-100, et. seq.,

WHEREAS, Virginia Code § 15.2-1411 provides that the governing body of any locality may appoint advisory boards, committees, and commissions as necessary to advise the governing body with regard to any matter of concern to the locality

WHEREAS, such members shall be appointed to serve at the pleasure of the governing body,

WHEREAS, the governing body may appropriate such funds as necessary to pay for direct expenses incurred by such members, including legal expenses, and may be equipped to use discovery tools including subpoenas issued under Virginia Code §15.2-409;

WHEREAS certain controversies and litigation have arisen over the past two years relating to development applications voted on by the Town, and

WHEREAS, the Town Council of Warrenton has at this time concluded that the citizenry of the Town deserves a comprehensive review of the process used to evaluate and decide such development applications, particularly as pertaining to high-intensity commercial uses;

THEREFORE, BE IT RESOLVED, THAT THE TOWN COUNCIL OF WARRENTON SHALL HEREBY ESTABLISH "THE WARRENTON COMMISSION ON OPEN AND TRANSPARENT GOVERNMENT" WITH THE FOLLOWING AUTHORIZATIONS, DUTIES AND OBJECTIVES AIMED AT REFORMING AND IMPROVING TOWN PROCESSES:

1. Review the development applications process as managed by the Town of Warrenton, with specific focus on facilitating the public's timely awareness and understanding of said applications;
2. Review any application that has been before the Town in the past six (6) years that the Commission deems appropriate for review (i) so as to promote increased transparency and openness; and/or (ii) may reveal defective, or potentially improper, practices by Town government which require further investigation. Of initial and particular interest by the Town Council is the Town's approval of Special Use Permit 22-03 issued on February 14, 2023, to Amazon Web Services.
3. Conduct its review with the support of the Town Attorney and such outside experts and counsel as the Town Attorney may deem necessary to develop a record of relevant correspondence, applications, meetings, news reports and any other materials relevant to the selected application;
4. Prepare a report to Council within twelve (12) months of its formation, that provides the Commission's findings and recommendations regarding *inter alia* improvements to procedure, process and/or the Town's Code of Ethics to ensure that all communications with applicants are timely, open and transparent;

5. Appropriate such funds as necessary for the Commission to discharge its duties.

6. The composition of the Committee shall consist of two members of the Town Council, one of whom shall be the Vice Mayor, and three town residents selected by them and confirmed by the Council.

ATTACHMENT:

Votes:

Ayes:

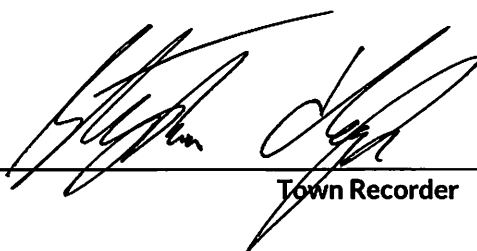
Nays:

Absent from Meeting:

For Information:

Town Attorney

ATTEST:



Town Recorder

Town of Warrenton Commission on Open and Transparent Government

Ensuring Accountability and Trust

Introduction

The Town of Warrenton is committed to fostering an environment of openness and transparency in all aspects of its government operations. To this end, by resolution dated January 14, 2025 (see attached), the Town of Warrenton Commission on Open and Transparent Government was established. The Commission's primary goal is to ensure that the residents of Warrenton have full and timely access to information regarding the town's governance, policies, and decision-making processes. This initiative is rooted in the belief that transparency fosters accountability, trust, and active citizen participation.

Objectives of the Commission

The Commission on Open and Transparent Government has several key objectives aimed at enhancing the transparency and accountability of the town's governance. These objectives include:

1. Ensuring Transparent Decision-Making

Transparency in decision-making is crucial for building public trust. The Commission will work to ensure that all decisions made by the town's government are transparent and based on comprehensive and objective information. This includes providing detailed explanations of the rationale behind decisions and making decision-making processes as open as possible.

2. Promoting Public Access to Information

One of the Commission's main objectives is to make information readily accessible to the public. This includes publishing meeting agendas, minutes, and official documents on the town's website, as well as providing access to public records in accordance with the Virginia Freedom of Information Act (VFOIA). Another objective is to make the information timely so that citizens believe that their voices matter and are not perceived as just an afterthought.

3. Encouraging Citizen Engagement

The Commission seeks to encourage active and meaningful citizen engagement by creating opportunities for residents to participate in town meetings, public hearings, and other civic activities. This includes providing clear and timely information about upcoming meetings and events, as well as offering multiple channels for citizens to submit their feedback and concerns.

Historically, public hearings have had little bearing on legislative decisions, especially those outside of the public participatory process. It has been observed that citizens either are too early in the legislative process (not enough information has been received to support a complete analysis) or too late (the decision has already been made). The Commission seeks to change this dynamic.

4. Enhancing Communication and Outreach

Effective communication and outreach are essential for promoting transparency. The Commission focuses on improving communication between the town's government and its residents through various means, including newsletters, social media, and public forums.

Structure of the Commission

Pursuant to the Resolution, the composition of the Commission will consist of two members of the Town Council, one of whom shall be the Vice Mayor, and three town residents selected by the two members and confirmed by the full Council.

The proposed composition of the Commission is currently as follows:

1. William Semple, Vice-Mayor, Ward 2, Chairperson
2. Eric Gagnon, Member of Council, Ward 5
3. to be determined
4. to be determined
5. to be determined

Key Initiatives and Projects

The Commission on Open and Transparent Government will undertake various initiatives and projects to fulfill its mission. Some of the key projects include:

1. Examining Past and Current Processes and Procedures

The Commission plans to examine selected land use applications submitted over the past six years wherein major breakdowns in openness and transparency occurred that demonstrably eroded public trust. Consistent with the resolution approved by the Warrenton Town Council (attached), the Commission will investigate:

- 1) the inappropriate, untimely and premature intervention of government officials and employees into the land use application process before applications have been fully

- and independently reviewed, including but not limited to interfering with the responsibilities and objectives of advisory committees;
- 2) communications between government officials, staff and applicants whereby applicants are led to believe their projects are “green-lighted” well before the application has been fully and independently vetted by staff, advisory committees, the Town Council and the public.
 - 3) the inappropriate influence of applicants on the legislative process, especially through ex-parte communications with staff, planning commission members, or Council members, including but not limited to communications from the applicant, the applicant’s representatives; and offers of inducements or the promise of employment.
 - 4) the co-opting of staff to shield information from the legislative body through the use of non-disclosure agreements (NDA’s), inappropriate document redactions, or any other technique to shield information relevant to the public’s understanding of the project and government officials’ need to know.
 - 5) The town code, ordinances and policies that serve to isolate procedures and processes from internal and external oversight, leading to : 1) a lack of accountability; 2) absence of oversight allowing for unchecked actions and decisions by government officials, 3) potential for corruption and favoritism, as isolated procedures can make it easier for undue influence to affect decision-making processes; and 4) inefficiencies and inconsistencies in the application of rules and regulations, resulting in a governance system that is neither fair nor effective.
 - 6) Applicability of the Virginia Freedom of Information Act to the deliberations, working papers, and communications of town officials.
 - 7) The applicability, or lack thereof, of the Town's Code of Ethics and its enforcement.

The Commission will conduct its review with the support of the Town Attorney and such outside experts and counsel as the Town Attorney may deem it necessary to develop a record of relevant correspondence, applications, meetings, news reports and any other materials relevant to the selected applications. The Commission will initially focus on the Town Council's approval of the Special Use Permit 22-03 issued on February 14, 2023, to Amazon Web Service.

The Commission's investigation into these matters is essential to ensure that the town's governance remains open and transparent, with robust checks and balances in place to prevent any form of impropriety. By addressing these issues, the Commission aims to restore and strengthen public trust in the town's governance, ensuring that all residents have confidence in the integrity and fairness of the decision-making processes that affect their lives.

2. Reviewing the Town Website and Data Portals

The Commission will review the Town's approach to providing residents access to a wide range of data sets related to the town's operations, finances, and services, including timely status updates on all land use applications.

3. Transparency Audits

The Commission will conduct regular transparency audits to assess how well the town is adhering to its transparency and open government principles. These audits help identify areas for improvement and ensure that the town remains accountable to its residents.

4. Community Feedback Program

The Commission will establish a Community Feedback Program to allow residents to provide input on various aspects of the town's governance, from policy decisions to public services.

The Commission, in concert with the Town, will collect and analyze this feedback to help inform future initiatives and decision-making processes.

5. Preparation of a Report

The Commission shall prepare a report to Council within twelve (12) months of its formation, that provides the Commission's findings and recommendations regarding *inter alia* improvements to procedure, process and/or the Town's Code of Ethics to ensure that all communications with applicants are timely, open and transparent;

Conclusion

The Town of Warrenton Commission on Open and Transparent Government seeks to play a vital role in promoting accountability, trust, and citizen engagement. Through its various initiatives and projects, the Commission is committed to ensuring that the town's governance is open, transparent, and responsive to the needs of its residents. By embracing innovation and community collaboration, the Commission strives to create a more informed and engaged community, fostering a culture of transparency that benefits everyone.

Warrenton Commission on Open and Transparent Government

Discovery Plan

PREAMBLE:

The purpose of this Discovery Plan is to articulate the ability of the Warrenton Commission (“the Commission”) on Open and Transparent Government to obtain records for its legislatively-defined purposes, as well as set out any applicable limitations and a process for deciding said issue. It follows both state law and the principles of the U.S. Constitution and Virginia Constitution, which each envision an open and transparent government.

The Commission has two potential sources of records:

1. Town of Warrenton (“Town”) records:
2. Records from Third Parties.

In terms of Town records, the Commission – as authorized by state law and chartered by the Town Council -- enjoys immediate access to any records available to the public under the Virginia Freedom of Information Act (“FOIA”). For those records which are exempt from FOIA, such as personnel records or attorney-client privilege communications, the Commission – as an arm of the Town -- enjoys a presumptive ability to review said records, with the recognition that there must be a process in place, overseen by the Town Attorney, by which (i) searches are subject to reasonable limitation, and (ii) privacy of certain records, as designated by FOIA, can be maintained unless and until the Commission releases its findings to the public. That process will balance the privacy interest of the individual with the right of the Commission to obtain information relevant to its intended purpose.

In terms of Third-Party records, the Commission shall enjoy those rights which are stated under Rule 4:1 of the Rules of the Virginia Supreme Court regarding civil cases, namely the Commission shall have the ability to seek records relevant to its purposes.

Introduction:

At its March 11th, 2025 regular meeting, the Town Council of Warrenton approved Resolution 25-03-03 (“Resolution”) formally authorizing the Commission, appointing Whitson W. Robinson as Special Counsel and authorizing him to hire a third-party IT expert to conduct an investigation into the approval of selected land use applications.

The Resolution states that the “primary delegated function of the Commission is to conduct discovery on and review of selected development applications, and of particular interest is Special Use Permit 22-03 issued on February 14, 2023 issued to Amazon Web Services.”

It further states that the Special Counsel “will be responsible for conducting legal discovery for the Commission, subject to authorization by the Commission and approval by the Town Attorney.” Additionally, the Resolution directs the Commission to “form a discovery plan and gather information, including electronic and other necessary records...to support the goals of the Commission.”

Pursuant to this resolution and Resolution 25-01-08, which previously authorized the establishment of the Commission, the Commission held a public meeting on March 27th, 2025, at which it unanimously approved a Mission Statement assigning the task of investigating three prior land-use applications to the Special Counsel and IT expert:

1. the Amazon data center project,
2. Warrenton Village, and
3. the Arrington VSA (collectively, described hereinafter as “the Projects”).

According to this Mission Statement, “the Commission will conduct its review with the support of the Town Attorney and such outside experts and counsel as the Town Attorney may deem it necessary to develop a record of relevant correspondence, applications, meetings, news reports and any other materials relevant to the selected applications.”

The purpose of this document is to present a discovery plan that will define the scope and process by which the Commission will (i) collect public files, documents, and other records and (ii) interview persons related to the applications.

I: Scope of Commission

The Resolution cites Section 15.2-1409 of the Code of Virginia, which “authorizes the governing body of a locality to (i) seek the attendance of witnesses and production of records to provide evidence under oath and (ii) apply to its Circuit Court for a subpoena or *subpoena duces tecum* so as to order that production if it is not produced voluntarily.”

Accordingly as directed by the Resolution, the investigation conducted by the Special Counsel and his designated third-party IT expert includes discovery, screening, and review of all written and electronic communications, files, documents, other items relevant to the Projects, and may include interviews with and requests from persons involved in the Projects, its legislative review or administrative processing. Such items and persons may include:

1. **Town Records (Internal):** Internal hard-copy and electronic records maintained by the Town on its servers or stored onsite or offsite in Town-controlled facilities, **which are relevant to the Projects**. Such records include, but are not limited to:
 - (a) Electronic messages, phone text messages, fax messages and any other electronic records or communications concerning the Projects, the applications and the legislative record, including e-mail backups and archives on Town server(s).
 - (b) Hard-copy files and documents concerning the Projects, including the applications and the legislative record;
 - (c) Phone text messages, electronic mails, electronic files, and telephone call records on Town government phones pertinent to the Projects; and
 - (d) Town personnel folders and files on Town server(s), **only if it is determined** by the Special Counsel and Town Attorney that there is information material to both the Projects and the underlying purpose of the Commission;

2. **Town records (External):** Hard-copy and electronic documents, correspondence, communications, e-mails, text messages, phone call records and logs, and other records of Town employees, agents or elected officials **which are relevant to the Projects and not maintained by the Town on its servers or in its storage.**
3. **Third Party records:** E-mail messages, phone text messages, electronic files, and telephone call records held by persons with an interest in the Projects, including developers, property owners, attorneys, witnesses, and other third parties with knowledge, which are relevant to the Projects and the underlying goals of the Commission and not subject to an applicable legal privilege.
4. **Interviews:** In-person, telephone and video interviews with persons deemed to be relevant to the Projects and the underlying goals of the Commission.

II: Process

The Special Counsel may use one or more of the following methods to obtain the pertinent records for the subject properties defined above:

1. The Special Counsel may employ, if not already, a third-party IT expert or agent to aid in the collection and review of information related to the Subject Projects. Any third-party IT expert or agent will be furnished a copy of this Discovery Plan and shall be required to execute an acknowledgment attached hereto as Attachment A, agreeing to abide by the terms of this Discovery Plan prior to any further work being performed.
2. Requests to individuals and organizations as described in Section 1 above ("Third Parties"). Where necessary, requests may take the form of subpoenas or subpoenas *duces tecum* filed by the Town Attorney and approved by the local circuit court.
3. Town server and hard copy storage access: The Special Counsel and his third-party IT expert will be provided with access to the Town computer servers and hard copy storage systems at a sufficient security access level necessary to independently and confidentially access, search for, collect, review, and examine all files and documents on Town servers for the purpose of determining the files and documents that fall within the scope described in (I) above, subject to the following:

- (a) Initial access to the Town's servers by the Special Counsel and his third-party IT expert will be monitored and supervised by Councilman Semple, Councilman Gagnon, the Town attorney, and staff as designated by the Town Manager who jointly will finalize the conditions and implementation steps for ongoing independent and confidential access, review and selection of all files and documents on the Town's server(s) by the Special Counsel and his third-party IT expert;
 - (b) The third-party expert will employ best practices to ensure the security and confidentiality of all information accessed on Town servers throughout this discovery process;
 - (c) As stated above, the Commission is immediately entitled to any document which is relevant to its investigation and subject to disclosure pursuant to FOIA. For those documents which are subject to FOIA limitations, the Commission, as an agent of the Town, is presumptively entitled to review its own records as long as they are relevant to the underlying investigation. That entitlement shall be balanced with any privacy concerns or potential harm from unconsented disclosure. On balance, it is presumed that the Town has the right to review its own records, recognizing that the public disclosure of said records can still be limited by the express terms of FOIA.
- 4. In the event of any dispute concerning the relevance of any sought document vis-à-vis the scope of discovery or other legal concerns, the Town Attorney shall determine whether or not the information shall be provided, based if necessary upon his confidential review of each specific document or file;
 - 5. If either the Special Counsel or the Commission as determined by majority vote, dispute the Town Attorney's finding in (4.) above, then the ultimate decision on whether or not a record will be included in the discovery process will be determined by a vote of the Town Council, subject to compliance with state and federal laws.

III: Disclosure

This section covers the processing of information, final disposition, and disclosure of information obtained as a result of the investigation defined in this document:

1. The Special Counsel will provide ongoing updates on the discovery process to the Commission and to the Town Attorney, and will report the discovery of any materially significant information immediately to both sitting Council members on the Commission and the Town Attorney;
2. Subject to the limitations of FOIA as described herein, any materially significant information obtained during the discovery process having a public interest impact will be released to the public immediately upon review by both sitting Council members on the Commission, and upon legal review by the Town attorney;
3. Any information obtained during the discovery process that the Special Counsel deems may require referral to the Commonwealth Attorney shall be held in strict confidence, shared only with parties with a “need to know,” for final disposition by the Town Attorney.
4. Otherwise, information obtained as a result of the discovery scope and process as defined in (I) and (II) above shall remain confidential during the discovery process until it is presented to the Commission at either its next scheduled quarterly meeting, or during a special meeting held at an earlier date;
5. All other information gathered in the discovery process will first be reviewed by Councilman Semple, Councilman Gagnon, and the Town Attorney for a final determination of relevancy pursuant to the scope of (I) above and will be publicly released pursuant to the terms of this section. Files, records, and other documents and information not relevant to the scope of this discovery plan will not be disclosed to the public, and such information will be securely redacted or deleted;
6. Information reviewed, gathered and processed by the Special Counsel, and reviewed by Councilman Semple, Councilman Gagnon, and the Town Attorney, will be forwarded to the

Commission for review, disclosed to the public, and included in the final report to be published by the Commission.

ATTACHMENT A

I, _____, hereby acknowledge that I will receive confidential information provided to me in connection with the Town of Warrenton, VA Transparency Commission in its official investigation into the Amazon data center project, Warrenton Village, and the Arrington VSA. I certify that I have read the Discovery Plan propagated by the Transparency Commission, and I agree to use the documents, files, records, or other information obtained through my role in aiding the Transparency Commission and the Special Counsel, only for the purposes of the Transparency Commission's scope, and not for any other purpose. I further agree not to disclose any documents, files, records, or other information I obtain in connection with the Transparency Commission's investigation to any other person. I expressly agree to be bound by this Acknowledgement and by the Discovery Plan, and to be subject to the personal jurisdiction of Fauquier County Circuit Court where that any dispute may arise in relation this Acknowledgement or with the Discovery Plan.

Date

Name (print)

Signature

Business Address:

Town Records Review Plan

Introduction

This document serves as an addendum as titled to the Discovery Plan for the Warrenton Commission on Open and Transparent Government (“Commission”) and details the procedures for access, review, classification, and public disclosure of Town records, including e-mails, files, text messages, phone mail and any other record, electronic or written, accessible on Town-owned servers or through third-party providers (hereinafter “Review Plan” or “Plan”).

The intent of the Review Plan is to provide the Commission, the designated Special Counsel, his third-party information technology expert (“IT Expert”) and members of the Commission (“Members”) with the widest possible access to all Town records responsive to their requests, with the understanding that full access to Town records is a prerequisite to ensuring a thorough discovery process and maintaining public confidence in the integrity of the investigation.¹

This Plan is also intended to protect the Town’s employees, vendors, and the public by safeguarding proprietary or confidential information against unintended release that could compromise their rights to privacy, breach the Town’s data systems or violate state law.

Accordingly, the Review Plan provides specific guidelines regarding the monitoring and in-camera review of any record accessed by the Commission, Special Counsel, Members or the Town Attorney prior to their use by the Commission or release to the public.

I: Town E-Mail Access, Review, Monitoring, and Disclosure

The Special Counsel, the IT Expert or Members as may be required from time-to-time shall have full and complete access to any and all e-mail records of current and former Town employees, elected officials, or other individuals stored on the Town’s e-mail archive (i.e., the Intradyn third-party archive system).

E-Mail Archive System (Intradyn) Access

The preferred means of access will be that the IT Expert directly access the Intradyn System, to search, select, and retrieve e-mails for initial review. The Town Attorney will determine if Criminal Justice Information Services (CJIS) certification is required for such access. If required, the IT Expert will become CJIS certified to access the system.

Alternatively, as the designated Custodian of Records, the Town Clerk may conduct searches and retrieval of e-mail records in response to requests of the Special Counsel, IT Expert, or Members.

The compiled archives (.ZIP files) resulting from such searches will be transferred to the Town’s One Drive system for access by the IT Expert for initial review (see below). Neither the Town Clerk nor any other individual with access to the One Drive System may open or access any archives produced by these searches prior to or after their transfer to the One Drive System.

Initial Review of E-Mail Records (Determination of Relevancy)

¹ The Town Attorney, by virtue of his position, has access to all of the Town’s files.

The Expert will conduct an initial search and review of the retrieved e-mail archives, selecting only those e-mails deemed relevant to the land-use applications within the scope of the Discovery Plan.

This search process may include review of individual e-mail messages, batch collections of e-mail messages, and automated text searches of archives. E-mails that fall outside of the scope of the Discovery Plan shall be discarded.

If the Expert reviews any e-mails that are not directly relevant to the scope of the Discovery Plan, or where relevance to a land use application is in doubt, such e-mails will be collectively reviewed by designated Members and the Town Attorney, and the Town Attorney will determine the relevancy or applicability of each e-mail to the scope of the Commission's inquiry.

At all times, such review of e-mail records will be conducted in a secure environment following IT industry best practices to ensure confidentiality.

In-Camera Commission Monitoring of E-Mail Records

Once the IT Expert has produced e-mails relevant to the scope of the Discovery Plan, he will confidentially transfer such records to designated Members, who will conduct an in-camera review. The designated Members will make the final determination as whether these records fall within the scope of land use applications covered by the Discovery Plan, and whether they should be included in the Commission's final report or other work product developed by the Commission.

Additionally, if determined by the Town Attorney, Members can receive CJIS certification to participate in this in-camera monitoring process.

The disclosure of all e-mails retrieved by the Commission will be subject to the Virginia Freedom of Information Act (FOIA).

II: Town Server Backup

The Special Counsel and IT Expert shall be provided with the oldest available backup of the Town server, access to which shall not be denied unless restricted by law (such as FOIA). This backup was made by the Town's IT Director on or about June 4th, 2025, and will be used by the IT Expert to perform data integrity checks on files provided by the Town staff. All access to these backup files will be conducted securely and according to industry best practices.

III: Town Phone Records

The Special Counsel and IT Expert shall be provided with access to requested phone records, including call logs, text messages, voicemails, or any other telephone information possessed by the Town, available from third-party services, or outside telecommunications providers.

The IT Expert will conduct a review of these phone records, and shall provide the records which are relevant to the scope of the Commission's Discovery Plan to the Special Counsel, Town Attorney, and designated Members.

The designated Members will make the final determination of the relevance of phone records to the scope of land use applications covered by the Discovery Plan, and whether such records

shall be included in the Commission's final report or other work product developed by the Commission.

IV: Personnel Records and Other Potentially Sensitive Town Records

If the Special Counsel and IT Expert require access to Town personnel records in either hard-copy or electronic format, such access will be monitored by the Town HR manager and a designated Commission member, and information obtained from these files must be relevant to the scope of the Commission's Discovery Plan. Additionally, access to and dissemination of information from Town personnel files by the Commission will be subject to prior review and approval by the Town Attorney.

Access to and dissemination of information from other Town files deemed sensitive by either the Town Attorney or Special Counsel will be subject to prior review and approval by the Town Attorney on a case-by-case basis.

V: Additional Town Records

If, in the course of their discovery process, the Special Counsel and IT Expert require access to additional Town records, such access shall be granted, subject to prior approval by the Town Attorney.

VI. Retention and/or Disposition of Records After Review

The Special Counsel and his IT Expert shall verify that any and all files downloaded from the Open Drive in their position shall be destroyed in their entirety upon completion of the investigation and the publication of the Commission's report.

RESOLUTION TO PROVIDE ACCESS TO TOWN E-MAIL RECORDS FOR THE WARRENTON COMMISSION ON OPEN AND TRANSPARENT GOVERNMENT

WHEREAS, in response to widespread public concern about development decisions made by the previous Town government, the Warrenton Town Council established the Warrenton Commission on Open and Transparent Government (“Commission”) on January 14th, 2025, to conduct discovery on three land-use applications: The Amazon Web Services data center on Blackwell Road, the Warrenton Village project, and the Arrington Voluntary Settlement Agreement (“mission scope”);

WHEREAS, on March 11th, 2025, the Warrenton Town Council appointed Whitson W. Robinson as Special Counsel to the Commission, appropriating funds to conduct discovery of Town and external records, and to retain an independent IT expert to conduct discovery of Town e-mail messages and other Town records stored on servers or archives controlled by the Town;

WHEREAS, Virginia Code Section § 2.2- 3700 of the Virginia Freedom of Information Act (FOIA), enables the broadest possible access to Town records, including access to and review of e-mail messages of current and former Town government staff, elected officials, and other individuals, and permits broad requests for retrieval of these Town records, subject only to narrowly-drawn exemptions defined in FOIA law;

WHEREAS, on June 23rd, 2025, the Commission approved its Discovery Plan and Town Records Review Plan (“Plans”) to detail the scope and procedures for access, retrieval, review, selection, and publication of e-mails, documents, and other records collected during the discovery process as conducted by its Special Counsel, IT expert, and Commission members;

WHEREAS, the letter and spirit of these Plans define a process whereby the Commission assumes it will have the broadest possible access to and retrieval of Town e-mails, and details a procedure for independent, confidential, in-camera review of these records to select only those which are relevant to its mission scope;

WHEREAS, the Commission’s Special Counsel and IT expert have experienced unnecessary resistance and delays in accessing these e-mail records in the manner defined by the Commission’s Plans, and this condition requires Commission intervention;

WHEREAS, without the broadest possible means of access to and retrieval of Town e-mails pursuant to the terms and processes defined in Commission's Plans, both the Town Council and the Commission cannot assure the public that the Commission has conducted a thorough, credible, and competent search of Town records to fulfill the Commission's mandate, thereby degrading the credibility of the Commission in the eyes of the public.

THEREFORE, BE IT RESOLVED THAT:

1. The Town Manager and Town staff are directed to provide the Commission with the broadest possible access to e-mail records, pursuant to the procedures defined by the Commission's Discovery Plan and Town Records Review Plan;
2. Specifically, and according to the process detailed in these Plans, and subject to the limitation in 4. below, the Town Manager and Town staff will provide the Commission with unrestricted access to Town e-mails sent to or from current and former Town staff, Town officials, and other individuals, stored on the Town's third-party e-mail archive storage system (Intradyn), and will be responsive to search requests made by the Commission's Special Counsel, IT expert, and Commission members pursuant to the Commission's Plans;
3. For the purpose of this Resolution, "unrestricted" shall be defined as all available e-mail messages sent to or from any current or former Town staff member, elected official, or third-party individual residing on the Intradyn e-mail archive, subject only to the limitation in 4. below;
4. For Town staff members or Town law enforcement officers who have signed non-disclosure or other agreements with the Virginia Fusion Intelligence Center (VFC), or any other state or federal law enforcement agency, to receive confidential or sensitive VFC information, or any other restricted criminal justice information (CJI), any search request made by the Commission for e-mails sent to or from the Town e-mail addresses of these individuals shall be pre-screened by the Town Clerk or other authorized Town staff member to exclude such restricted information prior to its delivery to the Commission or its independent IT expert;
5. Having unrestricted access to these Town e-mails, the Commission and its IT expert will then conduct its own, independent, confidential, in-camera search and review process, according to the procedures defined in its Plans, selecting only those records which are relevant to its mission scope, and subject to FOIA exemptions;

6. Any Town e-mails obtained by the Commission which are not relevant to its mission scope or subject to exemption under FOIA will either be subject to a final review by the Town Attorney, or discarded, pursuant to the procedures defined in the Commission's Plans;
7. The final collection of Town e-mails selected by the Commission in this process will then be made available to the public, according to the procedures defined in the Commission's Plans