

# Town Council Meeting September 2011

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**Town of Round Hill  
Town Council Meeting  
September 15, 2011  
7:30 p.m.**

A regularly scheduled meeting of the Round Hill Town Council was held Thursday, September 15, 2011 at 7:30 p.m. at the Town Office, 23 Main Street, Round Hill, Virginia.

**TOWN COUNCIL MEMBERS PRESENT**

Scott Ramsey, Mayor  
Mary Anne Graham, Vice Mayor  
Christopher Prack  
R. Daniel Botsch  
Clarkson Klipple  
Janet Heston

**TOWN COUNCIL MEMBERS ABSENT**

Jennifer Grafton Theodore

**STAFF MEMBERS PRESENT**

John Barkley, Town Administrator  
Rob Kinsley, Town Planner and Zoning Administrator  
Maureen Gilmore, Town Attorney  
Susanne Kahler, Recording Secretary

**MEMBERS OF THE PUBLIC PRESENT**

Dave Bowers, Stantec

**IN RE: CALL TO ORDER**

Mayor Ramsey called the meeting to order at 7:33 p.m.

**IN RE: PLEDGE OF ALLEGIANCE**

Vice Mayor Mary Anne Graham led those present in the Pledge of Allegiance.

**IN RE: COMMUNITY POLICING**

There was no report.

**IN RE: PUBLIC COMMENT**

There was none.

**IN RE: APPROVAL OF THE AGENDA**

Vice Mayor Mary Anne Graham moved to approve the agenda with one change – the deletion of the proposed proclamation for Constitution Week.

Councilperson Botsch asked to add one action item to the agenda – the scheduling of a Public Hearing on Phase 2 of the Main Street Grant Application as Action Item number 3. Since it was determined that a motion would not be needed to schedule a Public Hearing, scheduling of the date will be included under discussion of the project itself. With no further discussion, Councilperson Botsch seconded Vice Mayor Graham's motion to approve the agenda as amended. **The motion passed 4-0-0.**

## **IN RE: MAIN STREET ENHANCEMENT PROJECT**

Councilperson Botsch reported that at the last Land Use Committee meeting, John Barkley and Dave Bowers reviewed the comments received from Main Street residents. There were three property owners who did not respond. There was broad support for the project, with no impeding issues heard regarding obtaining the necessary rights of way. 150K was initially budgeted for right of way needs but since everyone seems cooperative, it is definitely beneficial to the Town if they do not need to use these funds. The exception being that there has not been any response from the Post Office or the property owner of the Patterson Building. If they are held up by last minute objections, the option remains to go across the street. Councilperson Botsch said he expected that residents would be invited to review the plan at the next Land Use Committee meeting scheduled for 7:30 p.m. on October 3<sup>rd</sup> to make any additional comments and asked that a Public Hearing be set for October 13<sup>th</sup> as the grant application is due November 1<sup>st</sup>. The Town has received 475K out of an estimated 800K+ project in their initial grant request but did not receive any funding last year due, in part, to the Town's inability to demonstrate sufficient progress being made. Town Administrator John Barkley will deliver invitations to the Land Use Meeting to Main Street residents and then they will place the necessary advertisements for the Public Hearing.

Councilperson Botsch and Town Administrator John Barkley agreed that the priorities were to get the grant application for additional funds in by the November 1<sup>st</sup> deadline and then regroup. Councilperson Botsch said that at some point there would have to be a breakdown done of the project and what /how it could be split if the Town did not receive the additional funding needed. John Barkley pointed out that, in reality, even though the Town had two well-documented quarterly progress reports in the last six months to show Jim Zeller of VDOT in which progression was evident, there was only a total of one million dollars in funding available last year for the entire Northern Virginia area, of which Round Hill was asking for half.

Town Attorney Maureen Gilmore arrived at 7:47 p.m.

Mr. Barkley did note that there was a time limit placed on spending monies obtained from the first grant – October, 2012. Deadline extensions were possible.

Vice Mayor Graham asked about the possibility of a diagonal crossing of Main Street at the train station. Councilperson Botsch said it was entirely up to the engineers as to what provided the best line of vision for drivers.

**A date was set for the Public Hearing of October 13, 2011 at 7:30 p.m.**

## **IN RE: WESTERN LOUDOUN SHERIFF'S SUBSTATION SITE PLAN REVIEW**

Town Planner Rob Kinsley said that he had received comments on the site plan from Peed & Bortz engineers and the Town's Utilities Department. Mr. Kinsley said they did take care of most of the comments they received the last time. He did note that the

County was proposing to put meters INSIDE the building but as long as accessibility to the meters was provided to Town Utility staff, it should not pose a problem. Town Attorney Maureen Gilmore asked what that did to the maintenance of the lines between the meter and the building as anything beyond the meter was their responsibility. Service lines into the building from wherever the connection lay to the main line should be the responsibility of the building owner, according to Mr. Kinsley. Mayor Ramsey and Councilperson Prack wanted to know why, or what reasoning the County had, to limit and lock up access to the meter. Mr. Barkley said that they could look further into the County's justification, or rationale for their reason. Mr. Kinsley said that the meters would be locked but a key would be provided to Utility staff. He said that the only other main comment was that in addition to the access easement to the main well site, utility easements to the water and sewer lines be provided as well. Town Attorney Maureen Gilmore said, "It looks like in light of that, if that is going to be the agreement, probably in the water and sewer agreement we should have a provision that the County is responsible for the service line....they are going to have to be responsible for whatever leaks, in that line, however they are detected, because traditionally you would only be responsible from the meter out, where in this way, if you were only responsible from the meter out, you'd be responsible for the whole service line. So we may need another clause. Where are we today? The County wanted a minor change, which was that the identification of the property reflect that it was not IN the Town of Round Hill but NEAR the Town of Round Hill. I don't think we have a problem with that. The second one...they want to make sure that if and when they convey the well site to the Town, they are not going to be in a position where a non-conforming lot has been created."

Mayor Ramsey said that he thought it was a non-issue, "it should be as simple as the creation of a lot shall always be dependent upon it complying with the zoning ordinance and therefore, if the zoning ordinance does not permit the creation of the lot, we won't create a lot. Basically, the Planning Commission cannot sign off on it."

Maureen said, "I think it is a non-issue too. It came up as an issue that we neglected to address. It came back to me that I had not included the language that they wanted. So in any event, I sent the language to modify their language and have not heard back yet, so that's where we are. They seemed pretty anxious a couple weeks ago to get it under way."

Mayor Ramsey said that they cannot approve the site plan even with an expedited review, until a signed water and sewer agreement was in effect.

Mayor Ramsey asked the Town Council to review the water and sewer agreement and to reaffirm his authority to negotiate agreement details with the County. Mayor Ramsey said the Town Council had to vote upon the water and sewer agreement. "I think it might be best that I ask the Council to give me authority to approve the water and sewer agreement between now and the next meeting," Mayor Ramsey said.

"I want to see it," said Vice Mayor Graham. Councilperson Heston agreed.

Mr. Barkley said he didn't see the downside of waiting until the October meeting. "If the Board of Supervisors has to come to the table and ask their staff if they have the water and sewer agreement negotiated with the Town of Round Hill and the have to say, 'Sorry, not yet,' where is the downside to the Town if we move just as methodically as we have over the last year?"

A copy was distributed to Council for their comments and review before the end of tonight's meeting. Councilperson Botsch said that he was perfectly happy giving the Mayor the authority but he knew what needed to be done and asked that one of the conditions be that the County would provide the price/pipe cost for the project at Franklin Park as well as to see if any cost-sharing arrangements could be made.

It was agreed to return to this subject after Council members had a chance to read and review a hard copy of the agreement.

### **IN RE: WATER CONSERVATION**

According to Town Administrator John Barkley, nothing has changed since the last month's Town Council meeting. Recharge levels are sufficient. Voluntary conservation efforts continue but things look good due to the significant rainfall that has been experienced. If things change dramatically, he will return to the Council. Vice Mayor Graham questioned whether another motion similar to last month's be made authorizing the Town Administrator, Mayor and staff to take action to institute mandatory conservation if necessary. There was a general consensus that it would not be necessary this late in the season. Mayor Ramsey said that if it became necessary, the Council could act at the Public Hearing set for October 13<sup>th</sup>.

### **IN RE: MEDIATION – WELLS 21SA, 21SB AND 6S, GOOSE CREEK WATER TREATMENT PLANT**

Mayor Ramsey reported that they had another mediation meeting and their goals going into it were to reach some sort of capacity agreement on 21SB, to reach an agreement to definitively cap and abandon 6S – that is the one that is failing surface water contamination tests – as well as to get firmer guarantees – a warranty, per se, on the performance of the plant. They (RHI) were quite motivated to negotiate, according to Mayor Ramsey. In exchange for all that, they agreed that the Town would provide one additional occupancy permit.

Vice Mayor Graham asked, "Even though there was a motion approved by the Council last month that directed you not to issue any more occupancy permits?"

Mayor Ramsey said, "Yes."

"OK, you are dancing with the devil," Vice Mayor Graham replied.

Councilperson Heston asked, "So why do we bother to vote as a Council if what we vote is not going to be adhered to during mediation?"

"We are required to engage in mediation and mediation requires a representative who is authorized to negotiate on behalf of the Town. If I'm not authorized to engage in negotiation, we are in violation of the consent decree. You are talking about 5 taps that they want occupancy permits for. In about 30 days, they will be eligible for 100 occupancy permits and we will have no leverage whatsoever," Mayor Ramsey stated. Town Attorney Maureen Gilmore reported that they had agreed to adopt the protocol that their engineer had worked up. "The consent decree was not written with the type of definitiveness that we would like to see," Ms. Gilmore said, "so I think it is a huge advantage that the Town is gaining now that we have a clear understanding of what connection means. Because clearly back in June, the understanding of RHI – of what connection means – was very different from what the Town thought it meant. So in that regard, the next time a well comes online, we won't have to address this issue again."

Round Hill Investors will not be saying, ‘Once we put the pipe is put in there, we’re done, you have to take it regardless.’”

Mayor Ramsey said that, “Despite the Council’s instructions to him to not give them any more occupancy permits, he determined that the value of them would soon become zero so he sold one of them to obtain some long term agreements. It was an Executive decision, he knowingly made it, and was willing to accept whatever consequences the Council wanted to place on him but he did it because he thought it was in the best interests of the Town.” His reasoning was that after 30 days, if the water testing came back within normal standards, the Virginia Department of Health would issue permits anyway, allowing 105 (well 21SA) and 57 (well 21SB) connections, so at least this way they put the well 6S contamination issue to bed. Ms. Gilmore said she felt this was a major advantage, “That at some point their senior engineer said look, it isn’t worth it to try to get well 6S up and running because it continues to test for surface contaminants and so we put that to bed now. They are going to disconnect it; it isn’t in the picture now. You don’t have to worry about that coming online and creating more problems for the Town staff and the Town. “

The signed mediation agreement states that well 6S will be capped within 60 days from August 31, 2011.

### **IN RE: TOWN OFFICE REPAIRS**

Town Administrator John Barkley said that they had received an estimate from Apple House Carpentry on the necessary repair costs. Phil Byzdyk – the owner of Apple House has served on the Council and Planning Commission and is quite familiar with the building. There is 20K in the Town’s Capital budget for such repairs. According to Maureen Gilmore, a Town the size of Round Hill was not required to have more than one bid nor is it required to utilize the lowest bidder.

Councilperson Heston said it was prudent to take care of things now or they would have a huge problem. Councilperson Prack said it made sense to try and get it done as quickly as possible due to the potential for a mold and mildew problem. Mr. Barkley asked the Council to approve the expenditure for short-term repair needs to address the first item on the list – *removal and replacement of rotting siding, fascia, and soffit on the rear gable end of the main building to remediate water infiltration, provide new flashing; prime and paint new work*. This would rectify the immediate concerns from the water leaking where the addition meets the main building. The second item – which was an additional cost for remediation and safe practices should lead be present – was also included. Since it was less than 5K total, it was not necessary for the Town Council to formally approve the first two items for immediate repair. Council agreed that they would proceed with Apple House for the initial items and then Mr. Barkley would seek other estimates for the remainder of the work that needed to be done.

## **IN RE: SHERIFF SUBSTATION WATER AND SEWER AGREEMENT REVISITED**

Vice Mayor Graham noted that there was no mention of a fire suppression system in the agreement.

Town Attorney Maureen Gilmore noted that clearly the County would like to have the property within the Town because then they would receive in-Town rates. The Town, however, at the time of incorporation, may only want to bring into Town limits the portion of the site that is the well site.

Councilperson Heston asked if the facility was exempt from taxes.

Ms. Gilmore replied yes.

Mayor Ramsey said he would seek a motion, "Authorizing him to execute the agreement in the form shown to you, subject to whatever conditions you want to apply in the motion." Councilperson Botsch said, "I will make a motion that we give Mayor Ramsey the authority to negotiate with the County the Western Loudoun Sheriff's Substation water and sewer agreement as it is in the current draft with the provision that he uses the leverage that he has as he sees fit to get an answer from the County on the size of the pipe that is required going down East Loudoun Street, the cost of the pipe, a cost-sharing agreement and an estimate for when that project is going to be done." Mayor Ramsey asked for clarification that his intent was necessarily for this information to be incorporated into the agreement itself but just things that the Town needed to be satisfied on before they were ready to proceed on the agreement.

Vice Mayor Graham seconded the motion. Councilperson Heston asked whether we wanted something in writing from the County or if we wanted to take their word.

Councilperson Botsch said he did want something from the County in writing as to what pipe size was needed, how much it was going to cost, how they would share it with us and some sort of commitment as to when they were going to do this project.

Councilperson Botsch asked Mayor Ramsey if he thought that was possible. Mayor Ramsey said that giving the Town the cost of the pipe was do-able, getting them to agree on a cost sharing agreement, particularly in writing, within a one or two week timeframe before approval of the agreement that they were working on was probably impossible, however a handshake deal might be possible. He felt they might GIVE them the cost but not necessarily SHARE the cost at all. Councilperson Heston called the question. **The motion passed 5-0-0.**

## **IN RE: APPROVAL OF MINUTES**

Vice Mayor Mary Anne Graham moved that the minutes be approved as amended.

Councilperson Heston seconded her motion. **The motion passed 5-0-0.**

## **IN RE: PERSONNEL POLICIES**

Town Administrator John Barkley said that three position descriptions were reviewed by the Administration Committee and then forwarded to the Town Council for review at the last meeting. The Town Attorney has also reviewed the position descriptions and made a few corrections and additions for closer compliance with OSHA and the Fair Labor and Standards Act as well as other Federal and State requirements. Mr. Barkley said some of the former position descriptions were rather vague and many of the employees, including him, weren't particularly aware of their responsibilities; having a concise and detailed set

of position descriptions protected the Town from liability and gives the employees a clear set of parameters on their jobs. Particularly on the Utilities side, there were many of their operators who weren't even aware that they had a position description when they first started this so they have made good progress.

Councilperson Heston moved to adopt the position descriptions as presented to the Town Council. Councilperson Klipple seconded her motion. **The motion passed 5-0-0.**

## **IN RE: TOWN ADMINISTRATORS REPORT**

A letter was received from a volunteer firefighter/resident of the Town asking why they did not put flags up on the telephone poles lining the streets on the tenth anniversary of 9/11. In his perspective, Mr. Barkley explained that he felt this was a solemn day, therefore, he did not think of it or recognize that there would be such a celebration. The flag at the Town Park was lowered to half-mast. Vice Mayor Graham did add that it was now also called "Patriot's Day" and she felt that might have been a reason as to why more people were choosing to fly their flags this year.

Mayor Ramsey added that there was a last minute impromptu recognition to mark the occasion put together at the last minute at the fire station and also, the memorial at Fireman's Field in Purcellville was worth seeing.

John Barkley said that the first cigarette tax check came in at \$2600. Sprint will also send a draft lease agreement this fall. Mayor Ramsey said the School Board was now getting into the cell phone tower game. Community Wireless had asked about placing a tower in back of the Round Hill Elementary School.

Councilperson Heston asked if residency of the newest Planning Commissioner was confirmed. He has been a resident since July, 2010.

Councilperson Botsch asked about the Exxon Station being unattended. Mr. Kinsley reported that there would now be a new lease as things were not working out.

## **IN RE: TOWN PLANNER AND ZONING ADMINISTRATOR'S REPORT**

SCS Engineers were starting to abandon the old test well sites at the old Furniture Factory and Post Office and would be shutting those down during the following week. There is a Defensible Decision Making Workshop being held the coming weekend and Mr. Kinsley will report back to the Council on its content. He will be in attendance along with two Planning Commission members and the Chairperson of the BZA.

## **IN RE: MAYOR'S REPORT**

One notable change on the Sheriff's Substation site plan is the storm water collection pond is to be moved the Northern part of the site to against the road – the lowest part of the site. Vice Mayor Graham asked whether it would be fenced – if it would be a hazard to children. Mayor Ramsey said that was a comment they could give to the County. He said he was also approached by a member of the volunteer firefighters about discussions as to whether the Town was supportive of the fire station staying in Town because the County gave them several reasons why it would not work. Mayor Ramsey said that it was in the Town's comprehensive plan that it stays where it is but they are not qualified to dictate to the Town or volunteers where it should go due to the effect of its location on response times, etc. but if they want to redevelop the site, the Town would work with them to the best of their ability.

Vice Mayor Graham said she would like to see them in Town but she did not see where there was room for expansion and would like to see the go to the substation.

## **IN RE: UTILITY COMMITTEE**

There will be a committee meeting on September 23<sup>rd</sup>.

## **IN RE: ADMINISTRATIVE COMMITTEE**

The Committee met the previous night. They discussed fees and language pertaining to fire suppression systems and also discussed the copier lease. The current copier was moved from the Town Office to the Wastewater Treatment Plant to be utilized by the staff there. Their next meeting will be October 19<sup>th</sup> at 7:30 p.m.

## **IN RE: LAND USE COMMITTEE**

Councilperson Botsch reported that they had already covered everything.

## **IN RE: COUNCIL COMMENTS**

Councilperson Botsch said that Mayor Ramsey's response to the individual's emails criticizing the Town's water rates was fantastic.

Councilperson Heston said she noted RHI was working along Route 7 parallel to the creek. Mr. Barkley said he would have staff look into it. He also noted that Verizon was installing fiber optic cables.

Vice Mayor Graham thanked Councilperson Botsch for his recent work listening to the Town's citizens voice their comments concerning the Main Street Enhancement Project.

## **IN RE: ADJOURNMENT**

With no further questions or comments, Mayor Ramsey adjourned the meeting at 10:15 p.m.

Respectfully submitted:

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Scott Ramsey, Mayor

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Susanne Kahler, Recording Secretary

FUNERAL