

**MINUTES OF THE REGULAR MEETING OF THE RURAL RETREAT TOWN
COUNCIL HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, OCTOBER 8, 2013, 7:00 P.M.**

Council Members Present: Mayor Timothy Litz; Vice-Mayor A. Keith Crigger; Ed Schaack; Dale Yontz; Jerrell Hall; Peggy Hash; James P. “Sean” Viars

Council Members Absent: None

Administration Present: Michael James, Town Manager; Lori Guynn, Clerk/Treasurer

Administration Absent: Scott Mitchell, Police Chief

Others Present: Lockie Blevins; Lewis McMillion, Carolyn Ellison; Rev. Roger Crigger – Rural Retreat Pentecostal Holiness Church

DETERMINATION OF A QUORUM

Mayor Litz called the meeting to order and determined a quorum was present.

INVOCATION

The invocation was given by Rev. Roger Crigger.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Timothy Litz.

PUBLIC HEARING

ORDINANCE 14-B – AMEND & REENACT 34-2.1 “NOISES, UNNECESSARY PROHIBITED” OF THE TOWN CODE – Mayor Litz stated he would like to open and close the public hearing prior to approving the minutes and asked that all comments on the proposed ordinance be made during this time. He then read the public notice as duly published and opened the hearing for comments.

Carolyn Ellison was first to address the Council. She stated she lives on Chinquapin Avenue and has a lot of music up the road and has called the town and county police many times. She stated sometimes the music begins at 1 o’clock in the evening and continues to 10 o’clock at night. She added it blares and pulsates. Ms. Ellison stated she has to close her windows and doors during the summer due to the noise. She commented she doesn’t know what has happened to disturbing the peace but she has lived in her house for almost 50 years and has never had as much noise as she has now. She added the noise also shakes the paneling in her house. Mayor Litz thanked Ms. Ellison for her comments.

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Lewis McMillion addressed the Council next and stated he lives on Sherwood Avenue. Mr. McMillion commented he has heard the music that Ms. Ellison was referring too. He then stated the ordinance addresses noise levels at 50 ft. but it doesn't address what the decibel level is for the music or any other noise. He added he didn't find anything that qualifies or states how much sound can be heard at 50 ft. from the point of origination. Mayor Litz asked Town Manager James to address Mr. McMillion's concerns. Town Manager James explained localities are eliminating the decibel level because it is difficult to define and equipment is needed to measure the level. By using a distance range it allows for determination of the noise loudness. Mr. McMillion commented he knows people that talk loud enough to be heard 50 ft. away. Town Manager James pointed out it would be situational. Mr. McMillion questioned how this is distinguished. Vice-Mayor Crigger commented there is no way to enforce what Mr. McMillion is referring too. He added this is one thing in the ordinance that needs to be addressed because noise audible at 50 ft. or to the property line is objectionable. Mr. McMillion commented there is a garage across the street from him and he can hear talking if he is in his backyard which is 150 ft. away. He asked what the qualifications were for the noise. Town Manager James stated the ordinance is structured in a way that it gives freedom to see if it is a justifiable complaint. Mr. McMillion commented it is a justifiable complaint only if you want it to be a complaint. Town Manager James stated each complaint will be looked at to determine if it is a serious issue. Mr. McMillion added without justification it is one person's opinion against another. He further stated this is a bad ordinance. Mayor Litz thanked Mr. McMillion for his comments and stated they were helpful. He asked for further comments regarding the public hearing. There being none, he closed the hearing and proceeded with the agenda.

APPROVAL OF MINUTES

A motion was made by Vice-Mayor Crigger, seconded by Councilmember Viars to approve the minutes of the September 24, 2013 regular meeting. There being no discussion, the motion passed by a vote of four (4) for: Crigger, Hash, Schaack, Viars; zero (0) against; two (2) abstentions: Hall, Yontz, due to their absences.

CITIZEN'S TIME

Lockie Blevins addressed the Council and stated she lives on Indian Circle and wanted to address Ordinance 17-B, specifically paragraph 2. She stated she wanted to know why it is being inconsistently enforced throughout the town. Ms. Blevins explained she had spoken to Mr. James a couple of time regarding the property at 121 Jefferson Avenue and based on the last she had heard from him he told her the owners had made an attempt to mow part of the lot that fronts Jefferson Avenue and he was satisfied. She then complained to Councilmember Yontz and Mr. James sent her an email that he would look further into the matter since she wasn't satisfied with his answer but she hasn't heard from him since. Town Manager James stated Ms. Blevins had sent him the owners contact information and a letter was sent to them a second time with no response received. Town Manager James stated there is a tree down so the owner is unable to mow but this property isn't the worst looking lot in town. Ms. Blevins commented the ordinance doesn't state that 2-3 swipes from the road can be mowed and it doesn't state because they are

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making an effort. She further commented the ordinance defines a nuisance which states weeds growing on any parcel shall constitute a nuisance. She added if it is being defined then why is it not being enforced. Ms. Blevins referred to a letter that another land owner received stating they were in ownership of the property and asked them to mow the lot in its entirety within 30 days and if not mowed in the allotted time it will be mowed and you will be charged. She reiterated will be charged and pointed out it doesn't state may or shall. Ms. Blevins pointed out this person mowed their lot and then stated if the lot hadn't been mowed then what she was being told another letter would be sent to them. Town Manager James stated usually two letters are sent if the owner doesn't respond to the first. Ms. Blevins stated she has lived there for six years and the property looks no different than it has since she moved in. She added the ordinance states written notice and 10 days will be given but the letter allows 30 days. Town Manager James responded he gives 30 days. Ms. Blevins stated she wants to know why the ordinance isn't being enforced and why it isn't uniform.

Councilmember Yontz stated when the ordinance was adopted anything over 12" needed to be mowed and there were special exceptions for people that used their property make hay and use common sense. He explained one of the things he couldn't answer for Ms. Blevins was why is it okay to make an effort to mow because this started with foreclosure properties that were out of control. He added he couldn't answer her so he encouraged her to come here because he understands her concerns and with the ordinance in place then why is it not being fully enforced and why is it okay to partially do it. Ms. Blevins then presented pictures of the property and added in some places the grass is taller than she is.

Discussion ensued on the residency of the property owners. Councilmember Viars asked if the issue was we don't know where to send the bill too. Town Manager James replied no but it was more of being absentee landlords. Vice-Mayor Crigger advised Town Manager James to contact the property owner's son who lives on Locust Avenue to obtain contact information and contact the owner by phone and ask if he has any intentions of cleaning up the lot. He then commented to Ms. Blevins that her father was interested in cleaning up the property if necessary and asked her if this was still an option. Ms. Blevins stated that would be a last resort because she shouldn't have to do it but it would be considered. She then read the portion of the ordinance that addresses absentee owners. Vice-Mayor Crigger stated the issue is lawyers and property rights activists. He added he would like for everyone to work together to find a solution to the problem.

Mayor Litz asked to what point does the town go too because he sees mowed grass in the pictures so at what point does the town stop. He added weeds in a flower garden can be viewed as weeds on the property that can be in violation. Mayor Litz stated if the owner is making no effort then common sense must be used and we must find a way to live together on common ground because we are all neighbors.

Councilmember Hash asked Ms. Blevins if the property owner mowed what has been mowed. Ms. Blevins replied she wasn't sure because she hasn't seen anyone at the property. Vice-Mayor Crigger commented an attempt is being made to mow the property though an attempt is not

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addressed in the ordinance. Ms. Blevins commented the lot is growing over on her. Vice-Mayor Crigger suggested she spray the fence row and offered to help her if needed. Ms. Blevins stated she had sprayed it last summer but it needs to be maintained.

Town Manager James commented the lots that are addressed are more serious and have head high weeds and critters. He further stated the town focuses on those that hadn't been addressed in months or years.

Mayor Litz asked if there were any additional comments. There being none, he proceeded with the agenda.

CORRESPONDENCE

RURAL RETREAT DEPOT FOUNDATION REQUEST – Mayor Litz read a request from Michael Spraker, President of the Rural Retreat Depot Foundation requesting the town's consideration of sanctioning a Christmas Bazaar to be held December 6-8 and a "haunted depot" on October 25, 26 and 31 that will be a joint effort with the Rural Retreat-Wythe County Fair Association. The request also asked to use the town's road closed signs in order to slow traffic through the flat and make the area safer for pedestrians. Councilmember Yontz made a motion to sanction the events with the stipulation that the parking not be limited nor the street be closed on December 8. The motion was seconded by Councilmember Viars. Following discussion on parking in the area for the Christmas parade, the motion passed by a vote of five (5) for: Crigger, Hall, Hash, Viars, Yontz; zero (0) against; one (1) abstention: Schaack due to being a member of the Rural Retreat Depot Foundation.

VERONICA WALDEN EMAIL – Councilmember Viars addressed an email he had received from Veronica Walden on West Baumgardner Avenue and commented he thought the council member's had received it also. He summarized the email and stated Ms. Walden explained she would like to speak on the dog issues that have involved her however she can't attend the meeting because she has a toddler and through email was the only way she could express her view. Mayor Litz commented she has rights as well. Councilmember Viars added Ms. Walden had also addressed the inoperative cars on the property. Vice-Mayor Crigger pointed out Ms. Walden isn't the land owner but the property owner is being cited for the inoperable cars. Councilmember Schaack stated Ms. Walden isn't asking them for anything she is only explaining the situation she is in.

DOG COMPLAINT ON SHERWOOD AVENUE – Councilmember Viars stated he received a complaint about dogs on Sherwood Avenue but will discuss it with Town Manager James later.

POLICE REPORT

Chief Mitchell's activity report for September was available for review. Town Manager James noted Chief Mitchell was absent due to being at the police academy for week long training. Councilmember Hash reported there has been a vehicle riding around in the Chinquapin Avenue

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and Hickory Avenue area and the citizens have expressed concerns. One citizen has seen a person running away from her house. She asked that Chief Mitchell be notified. Mayor Litz also commented Chief Mitchell was called to help with traffic control due to the severe wreck on the interstate.

UNFINISHED BUSINESS

ORDINANCE 14-B – AMEND & REENACT 34-2.1 “NOISES, UNNECESSARY PROHIBITED” OF THE TOWN CODE – Mayor Litz asked for a motion and second in order to discuss the ordinance. Councilmember Schaack made a motion to accept the proposed ordinance with the exception of establishing a noise level. Councilmember Hash seconded the motion. Councilmember Yontz stated if the common sense approach is used and consideration is given to if Town Manager James would leave then his replacement may want to go by the book. He further stated he doesn't like the ordinance, though it has its good points, but it is too loosely written and it gives too much authority to one person to exercise common sense. He added it needs to be narrowed down and more black and white definitions are needed. Town Manager James commented sometimes making things more black and white makes it tougher to use. He then suggested sending the ordinance back to committee.

Councilmember Yontz commented that citizens holding tailgate gatherings before football games or children playing in their yards will be in violation. Councilmember Viars pointed out that the time frame established is between 11 p.m. and 8 a.m. Vice-Mayor Crigger stated there are parts of the ordinance that can be enforced 24 hours a day which he disagrees with. He then stated this ordinance was written due to the issues on West Baumgardner Avenue and he read the Virginia Attorney General's opinion issued to Hanover County regarding a noise ordinance related to animals. He added this enforcement is not included in the proposed ordinance and should be. Town Manager James stated it was very close to what we have in the ordinance now in reference to animals. Vice-Mayor Crigger stated he would also like to send the ordinance back to committee.

Mayor Litz commented the Council isn't trying to step on toes but believes the ordinance isn't ready for adoption. He stated he would rather the Council err in caution than to put something out there and added no disrespect to the committee that worked on it. Mayor Litz then thanked Mr. McMillion for commenting on the ordinance and thanked Ms. Blevins for her comments and added she has a valid point. He stated the ordinances are for the people of the town, not the committee and town manager that has worked hard on it.

Councilmember Schaack stated it would be good if the Council will pass the ordinance as is, knowing it needs to be changed because most of it is pretty good. He added he would also like to see a noise level. Vice-Mayor Crigger stated the Attorney General doesn't support a noise level in ordinances because it is unconstitutional. He commented, in his opinion, the first sentence in the ordinance could stand for the entire ordinance. Councilmember Viars stated the sentence wasn't specific enough therefore everything was defined. He added there is a fine balance between being very general and very specific. He further stated if the ordinance is very

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specific then its trash but if it is very general then it is left open to interpretation for the next town manager or police chief. Councilmember Hall commented the decibel level is not a way to approach it but he also has concerns with enforcement because the way it is written there are fuzzy enforcement issues. Town Manager James commented this is an abstract concept and all complaints have to be legitimate. Discussion continued on the proposed ordinance.

Mayor Litz called for a vote. The motion failed by a vote of two (2) for: Schaack, Viars; four (4) against: Crigger, Hall, Hash, Yontz. Following the vote Mayor Litz commented he agreed with the nay votes but the Council does want a revised ordinance. He added he appreciates the work the committee did but valid points have been made. Town Manager James stated the comments made will be taken into consideration to appease both sides and the ordinance will be taken back to the committee.

RECESS/RECONVENE

The Council recessed for a short break at 7:50 p.m. The Council reconvened at 7:55 p.m.

Mrs. Ellison left the meeting during the recess.

UNFINISHED BUSINESS (CONTINUED)

TOWN NEWSLETTER – The newsletter is ongoing.

NEW BUSINESS

None

COMMITTEE REPORTS

HERITAGE DAYS – Chairman Yontz reported the details for the 2014 festival are coming together. We have the option to book a pair of acts within the price range and they will bring their own sound which is included in the negotiated price. Shentel is returning as the primary sponsor for 2014. The Friday evening show is almost complete. A brief meeting will be held following the conclusion of the Council meeting.

FINANCE & APPROPRIATIONS – No report.

PERSONNEL, ORDINANCES AND LEGAL MATTERS – TOWN CHARTER – Councilmember Schaack asked Town Manager James to report on the proposed town charter changes. Town Manager James stated the town attorney has reviewed the charter and it is ready for a public hearing to be held. He asked for questions and/or comments regarding the charter so a public hearing can be scheduled. Vice-Mayor Crigger encouraged the councilmember's to review the charter and address any concerns with the town manager.

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TOWN MANAGER’S REPORT

The following items were discussed and/or acted upon:

RURAL RETREAT SIDEWALK IMPROVEMENT PROJECT PHASE 7 – We are over 50% complete on this project. All change orders have been approved by VDOT with a minor drainage adjustment needed. I did discuss with A&A possible overages in the inspection budget. We are working with the resident inspector to minimize his time on site, while maintaining work quality. We may see possible overage in this area, but with expected overages from previous projects this should not be a problem. More information will be given to council as information is gathered. We are also working on our Phase 8 & 9 design and funding once we can adequately determine from VDOT what residual monies is available from Phases 1-6.

Vice-Mayor Crigger commented the past few projects there have been issues with the inspection budget and questioned if this was going to continue to be an ongoing issue. Discussion ensued on the town hiring an inspector to avoid future problems and the Council’s dissatisfaction of the reoccurrence.

UV DISINFECTION – WWTP – Today we hosted our substantial completion at the WWTP with the manufacturer Trojan, the engineer and DEQ. No major issues were raised from staff or the engineer. A final punch list was created and will be completed by Teaters Trucking. We will apply now for a Certificate to Operate from DEQ and then receive our new testing requirements.

SOUTH FORK REED CREEK SEWER REHAB PROJECT – The design and cost estimates are near completion by Anderson & Associates. The total cost of the project was \$40,000 with \$20,000 being supplied by the Mount Rogers PDC. Once the design is reviewed and approved we will focus on gathering funding for the proposed project.

DERELICT BUILDING ORDINANCE – The draft ordinance is now completed; we will meet with Attorney Sobey for legal review of the ordinance. The Personnel, Ordinances and Legal Matter Committee will be given the ordinance prior to it being distributed to the Council. This item should be available to Council by our November 12th regular meeting.

VML-VLDP PROGRAM – Our quote from VML should be available to us this week. We are looking to secure a benefits package that encompasses current and future employees due to new state requirements on benefits offered to new employees hired after January 1, 2014. This budget item will be presented to Council for final decision at our next meeting, which if agreed upon, will opt the Town out of the VRS VLDP program.

DOWNTOWN REVITALIZATION – We are currently soliciting applications for the Economic Restructuring portion of our downtown master plan. Once those are in and a firm selected, we can move forward with the creation of the plan. Brian Reed with MRPDC reported nine firms have contacted him to obtain the pertinent information.

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SHENTEL – Shentel notified the town office that they anticipate placing a sales team in the community by mid-November to discuss packages and the transition process with current and perspective customers. Construction is approximately 75% complete.

VEHICLE REPLACEMENT – As noted in previous council meetings, staff is working on a clearly outlined vehicle replacement schedule as to avoid the current situation we find ourselves in. The next budget year we are looking at the replacement of the current trash truck / truck body as well as possible replacements of large equipment in the coming fiscal years. The finance committee will be given this information as well as suggestions closer to budget preparation time.

The trash truck repairs have been quoted at \$13,000 - \$15,000 not including work on the engine which cannot be performed at Cavalier in Roanoke. Staff is exploring options now.

EVERBRIDGE REVERSE 911 SYSTEM – This was discussed at the Joint Governing Bodies meeting and will be used to provide a reverse 911 system in Wythe County.

ISO RATING – A representative met with Tony Wright, General Services Director and Dave Evans, Fire Chief to approve the town's fire safety system. Upon completion, the representative reported the town's ISO rating will reduce from 6 to 5.

TREASURER'S REPORT

CERTIFICATION OF PPTRA RATE – Clerk/Treasurer Guynn referred to the handout distributed comparing the 2013 tax assessment and revenue to be billed with figures from 2012. She noted there will be a slight decrease in real estate revenue. Mrs. Guynn explained the Council will need to certify the 2013 personal property tax relief rate at 49.25% and noted the town receives \$17,068 from the state to apply toward personal property tax relief. Vice-Mayor Crigger made a motion to certify the 2013 personal property tax relief rate of 49.25%. The motion was seconded by Councilmember Yontz. There being no discussion, the motion was approved by a vote of six (6) for: Crigger, Hall, Hash, Schaack, Viars, Yontz; zero (0) against.

The bills for October 8, 2013 were read and approved.

TALK OF THE TOWN

No one was available to attend the *Talk of the Town* radio program at the WYVE/WXBX radio station on Wednesday morning.

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ADJOURNMENT

There being no additional business to discuss, the meeting was adjourned upon a motion by Councilmember Schaack. The motion was duly seconded and approved.

Mayor

Clerk