

**MINUTES OF THE REGULAR MEETING OF THE RURAL RETREAT TOWN
COUNCIL HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, NOVEMBER 26, 2013, 7:00 P.M.**

Council Members Present: Mayor Timothy Litz; Ed Schaack; Dale Yontz; Jerrell Hall; Peggy Hash; James P. "Sean" Viars

Council Members Absent: Vice-Mayor A. Keith Crigger

Administration Present: Michael James, Town Manager; Lori Guynn, Clerk/Treasurer; Scott Mitchell, Police Chief

Administration Absent: None

Others Present: Fred & Daphne Bowers; Charles, Jr. & Louise Hall; Eddie Sheets; Bob & Sandra Lewis; Shirley Vipperman

DETERMINATION OF A QUORUM

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

INVOCATION

The invocation was given by Rev. Ed Schaack.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Timothy Litz.

APPROVAL OF MINUTES

A motion was made by Councilmember Yontz, seconded by Councilmember Viars to approve the minutes of the November 12, 2013 regular meeting. There being no discussion, the motion passed by a vote of four (4) for: Hall, Schaack, Viars, Yontz; zero (0) against; one (1) abstention: Hash due to her absence at the previous meeting; one (1) absent: Crigger.

CITIZEN'S TIME

The citizen's present requested permission to speak later in the meeting during the consideration of the rezoning request. Mayor Litz agreed and proceeded with the agenda.

CORRESPONDENCE

Councilmember Schaack addressed Town Manager James' recent weekly report that reported there was a rumor that Smyth County Community Hospital is against the proposed nursing facility being built in Rural Retreat. He explained he contacted Lindy White, CEO of SCCH to

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discuss this and she assured him that they are not against the facility and in fact are very supportive of it. Ms. White also offered to attend tonight's Council meeting to express their support. Mayor Litz stated he had received an email from Ms. White and read a portion of the email that stated she was "writing to clarify Smyth County Community Hospital's position on the new nursing facility proposed for Rural Retreat. I received a call from one of your Councilmen on Friday and we are not and have no plans to oppose the new nursing facility. While we have our own 109 bed nursing facility located in Marion we are optimistic there will be a need and both facilities will be very healthy." He explained this was the most gracious email and he appreciates Ms. White sending it to clear up everyone's concerns. He added the rumor was possibly started to be vicious but he would like the rumor to be ignored. Councilmember Yontz explained he was unaware that Councilmember Schaack had called Ms. White but he had contacted our newly elected delegate Jeff Campbell yesterday and he assured him he is supportive of the development whether the rumor was true or false. Mr. Campbell is going to write a letter of support to send to the VDH, Smith-Packett and the town. He is to have Delegate Crockett-Stark to do the same. Councilmember Yontz commented rumor or not it will only help.

POLICE REPORT

Chief Mitchell stated to date he has charged another subject with shoplifting at the Dollar General. He explained he expects this to increase as it gets close to Christmas. He is working on dog complaints on North Greever Street. Chief Mitchell is conducting the business checks and has completed around 20 to date but no feedback has been received. He has spoken to the first sergeant with the Virginia State Police and asked for an increase in enforcement over the holidays so they will be in town to help out. Chief Mitchell noted the "Mr. Strong" 5K is coming up on December 7 and the Rural Retreat Christmas Parade will be on December 8. He stated he has spoken to Sheriff King to request additional assistance.

UNFINISHED BUSINESS

TOWN NEWSLETTER – Mayor Litz explained to the citizens present that the town will be printing a newsletter for the residents. He added he will be including a canning recipe in it. Town Manager James stated the newsletter will be printed in December due to making additions and corrections at this time.

VIRGINIA LOCAL DISABILITY PROGRAM – Town Manager James explained an email from the VLDP representative for VML (Virginia Municipal League) and the state is requiring VML to join the Virginia Local Government Insurance Association which helps to avoid each individual government that is opting out of the VRS (Virginia Retirement System) program from having to go through the procurement process. A public hearing is required to join the association. The December 10 meeting will be continued to the following Tuesday, December 17 for the Council to meet and adopt the ordinance. He noted there are no fees to belong to this organization.

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NEW BUSINESS

REZONING REQUEST – COMMERCIAL NEIGHBORHOOD TO AGRICULTURAL – NANCY BARROW PROPERTY – Town Manager James reported the Planning Commission held a public hearing for the request by Nancy Barrow to rezone her property at 402 South Main Street from Commercial Neighborhood to Agricultural. Comments were received from the public and the Planning Commission voted to recommend the Council deny the rezoning request based on spot zoning and the ambiguous land use not being compatible with agricultural use. Town Manager James added he agrees with the Planning Commission's recommendation.

Councilmember Yontz made a motion and seconded by Councilmember Hash to accept the Planning Commission's recommendation to deny the rezoning request. Councilmember Yontz commented if the request was approved then each rezoning request will need to be approved. He added he felt it was bad and they need to follow the recommendation. Councilmember Hall stated the issue of horses on this property has caused the third biggest stir in the town since he has been on the Council and on behalf of the neighbors that surround the property he feels it shouldn't be allowed. Councilmember Yontz addressed the citizens and stated he appreciates them voicing how they feel and for attending the meetings. There being no additional comments, the motion was approved by a vote of five (5) for: Hall, Hash, Schaack, Yontz, Viars; zero (0) against; one (1) absent: Crigger.

Councilmember Schaack stated Ms. Barrow was to have the horses off the property by the 22nd though she has tried but the problem has been the horses are not being willing to get into a trailer. He added legally the fine is \$25 per day but since Ms. Barrow is trying to move the horses he thinks the Council should consider waiving the fee. Town Manager James explained he had told Ms. Barrow it would be the Council's decision to waive the fee which has accumulated to \$125. Mayor Litz commented the Council isn't interested in causing financial harm. Discussion ensued on getting the horses moved and setting a time frame for the fee to be waived. Councilmember Viars made a motion to allow two weeks from this date to move the horses and the fee be waived one time only during this time with no extension and after the two weeks if still in violation the full fine must be paid in addition to the balance of the \$25 per day. The motion was seconded by Councilmember Schaack. Councilmember Yontz asked how long this has been an issue. Town Manager James explained Ms. Barrow had until November 14 to remove the horses because town code allows thirty days from the time the property owner is notified of a zoning violation but an extension was granted until November 22 at which time the fine began. Councilmember Yontz stated due to the amount of time that the owner has been in violation there should be a penalty. Mayor Litz asked for a vote on the motion and clarified the extension will be granted one time only for a two week period beginning today. There being no additional discussion, the motion was approved by a vote of five (5) for: Hall, Hash, Schaack, Yontz, Viars; zero (0) against; one (1) absent: Crigger.

Bob Lewis requested permission to address the Council. Mayor Litz agreed. Mr. Lewis stated at the Planning Commission meeting the previous night Ms. Barrow's tenant mentioned rescue animals and noted this is the second time this has been brought up. He suggested the Council

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consider addressing rescue animals to avoid another situation that occurred on West Baumgardner and could have potentially happened on the Barrow property if the rezoning would have been approved. He added there may need to be something that states it is or isn't permitted or is monitored in some way. He stated it startled several people because she was talking about more horses. Mayor Litz commented that dogs are handled differently than horses because horses aren't allowed period. Mr. Lewis stated he understands that but he wasn't sure that the individual understood that and that anyone else will if it is addressed again. Councilmember Yontz asked if the town attorney could draft a request form that citizens would need to complete if they were considering starting an animal rescue. Town Manager James stated the easiest way to address this would be through the zoning ordinance. Councilmember Yontz commented this was a concern with the noise ordinance because he wasn't sure it addressed the fact that citizens don't want animal rescues in any neighborhood. Town Manager James stated dogs aren't agricultural animals and the Council deemed a dog rescue to be a kennel.

Mr. Lewis addressed the horse issue and asked if it was a done deal or if it can be brought back up in six months and be reapplied for. Town Manager James stated twelve months must pass before another petition can be made. Mayor Litz commented the illegality of spot zoning for the most part made this a done deal. Mr. Lewis then addressed spot zoning and stated it can be done if in the public's interest. Councilmember Schaack read from a 2000 Virginia Supreme Court ruling that stated "illegal spot zoning occurs when the purpose of a zoning ordinance or rezoning amendment is solely to serve the private interest of one or more land owners rather than to further the localities welfare as a part of an overall zoning plan." Mr. Lewis agreed and stated the Code of Virginia has been rewritten to state that and says "however an order prevails, the spot zoning argument has a chance of success only in the exceptional cases in which there is no arguable public purpose or benefit. Spot zoning is only objectionable where there is no public benefit and solely to preserve the rights or interest of one or more members." He stated it would be up to a court to decide but a rescue could be considered a benefit to the public. Mayor Litz added the Town Council generally follows the Planning Commission's recommendation but can say no even if they decide yes.

Charles Hall addressed the Council and stated he appreciates the Council's decision. He explained there is a weeping willow tree on the Barrow property that is near a wet weather spring and each time it rains water covers his and Mr. Sheets' property because the ditch on the other property isn't being kept clean. Mayor Litz asked Town Manager James to follow up on Mr. Hall's comments and to make a recommendation.

Mr. Lewis spoke on behalf of the citizens present and stated they are in concurrence with the decision made and thanked the Council for their time.

All citizens left the meeting at 7:30 p.m.

RRVFD TRUCK REPAIRS – Town Manager James explained the light tower on unit 2 has been malfunctioning and is not working at all and will cost approximately \$8,000 to repair which will require a complete overhaul. He noted Chief Evans has been trying to get the cost reduced. He

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further stated the town's purchasing policy is to have the Council approve purchases over \$1,500. The repair cost will be paid from undesignated funds to avoid spending all the funds allotted for truck repairs. Councilmember Viars inquired if the department's financial statements had been received. Town Manager James replied no. Mayor Litz stated he feels this is an issue that shouldn't be forgotten. Councilmember Yontz commented the lights on the trucks are a necessity. A motion was made by Councilmember Yontz to authorize the repairs to the light tower. The motion was seconded by Councilmember Hall and was approved by a vote of five (5) for: Hall, Hash, Schaack, Yontz, Viars; zero (0) against; one (1) absent: Crigger.

COMMITTEE REPORTS

HERITAGE DAYS – Chairman Yontz reported the contracts will be finalized for the Saturday acts following the meeting and the contract for The Churchmen has been received. Beginning January 1 he will begin contacting sponsors in order to be included in their budgets. Town Manager James stated he has emailed Troy Harris with Dr. Pepper Corp. to remind him about Heritage Days and the Indian Blessings program. Treasurer Guynn reported \$191.00 was received from Dr. Pepper for Indian Blessings.

FINANCE & APPROPRIATIONS – Treasurer Guynn reported the final audit report may be received prior to the next meeting.

PERSONNEL, ORDINANCES AND LEGAL MATTERS – TOWN CHARTER – Councilmember Schaack reported a public hearing will be held December 10 on the Town Charter. A public hearing will possibly be held in January on the proposed noise ordinance. Town Manager James stated the state requires a ten day notice prior to the public hearing on the charter and he would like to get it to Jeff Campbell as soon as possible after the public hearing.

TOWN MANAGER'S REPORT

The following items were discussed and/or acted upon:

RURAL RETREAT SIDEWALK IMPROVEMENT PROJECT PHASE 7 – All the entrances associated with Phase 7 has been completed and we now only lack a few stretches of sidewalk which should be completed next week with good weather. The contractor had to replace a handicap entrance on Evergreen Avenue that was retaining water and we will have to correct a curb and gutter issue near the Ag building. Other than those minor concerns we will host our substantial completion next week. After that the contractor will have 30 days to perform all cleanup work, yard repair and tree replacement.

RURAL RETREAT SIDEWALK IMPROVEMENT PROJECT PHASE 8 – Phase 8 is currently under design. We have been awarded all funding needed for the design and will be making budget preparation for full consideration. If all goes well, we anticipate putting the project out for bid by the summer of 2014.

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ECONOMIC RESTRUCTURING – RR DOWNTOWN PROJECT – The management team will be meeting the second week of December to review the Economic Restructuring proposals and hopefully choose a firm to conduct the study. Once that is completed we will begin the creation of our master plan in January. Anderson & Associates and the firm chosen for the Economic Restructuring firm will be in attendance at these meetings.

TOWN STREETS – Staff is working with VDOT on placing a number of our local streets within the state system. We have several options available to the Town. Once we meet with VDOT and discuss those options more thoroughly, Council will be presented with a recommendation on how best to proceed. Council will have to donate those streets by resolution. He noted there are funding possibilities with the urban system.

Councilmember Hash asked how many streets are town owned. Town Manager James responded there are 12-13.

SOUTH FORK REED CREEK PROJECT – The South Fork Reed Creek project design is near completion. We have received preliminary site plans and visited the proposed project area several times. There are a few items that still need to be reviewed and discussed, once formal designs are submitted to our office we will make final suggestions to Anderson & Associates.

TELEMETRY SYSTEM REPLACEMENT – Staff is working to secure three quotes from firms to replace our outdated telemetry system that measures tank levels and dictates operation times for the water treatment plant. New advancements have allowed for radio and satellite SCADA systems to be as reliable as original tone systems and at a much cheaper cost. We have had consistent issues with the telemetry we have in place and hope to include this as a new project in our CIP for 2014-2015. This project is expected to cost less than \$10,000.

SANITATION COLLECTION RFP'S – We have received proposals from Waste Industries, LLC and Melvin Enterprises for the privatization of trash collection in town. They will be evaluated during our budget preparation process along with the possibility of purchasing a new truck, if privatization becomes a non-option. Town Manager James noted the bids were competitive. He added the needed repairs for the trash truck will be evaluated and a decision will be made on the repairs before it is fixed and then we decide to get rid of it.

TREASURER'S REPORT

TOWN CHRISTMAS DINNER – The town's Christmas dinner will be Wednesday, December 18 at the Rural Retreat Community Center at 6:00 p.m. Councilmember Schaack stated he would like for all retired employees to be invited to the dinner. The other members concurred.

The bills for November 26, 2013 were read and approved.

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TALK OF THE TOWN

Mayor Litz is to attend the *Talk of the Town* radio program at the WYVE/WXBX radio station on Wednesday morning.

ADJOURNMENT

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

Mayor

Clerk