

**Round Hill Town Council Meeting**  
**March 17, 2011**  
**7:30 p.m.**

A regular meeting of the Round Hill Town Council took place Thursday, March 17, 2011 at 7:30 p.m. at the Town Office, 23 Main Street, Round Hill, Virginia.

**Town Council Members in Attendance**

R. Daniel Botsch  
Janet Heston  
Clarkson Klipple  
Christopher Prack  
Vice Mayor Mary Anne Graham  
Mayor Scott Ramsey (arrived at 7:42 p.m.)  
Jennifer Grafton Theodore (arrived at 7:50 p.m.)

**Town Staff Members in Attendance**

John Barkley, Town Administrator  
Rob Kinsley, Town Planner and Zoning Administrator  
Betty Wolford, Town Treasurer  
Susanne Kahler, Recording Secretary

**Other Members of the Public in Attendance**

Janet Clarke, Candidate for Board of Supervisors  
Jordan Dimoff, Lake Ridge Estates  
Craig Fredericks, Resident  
Michael and Joanne Healy, Residents of Stoneleigh

**IN RE: CALL TO ORDER**

Vice Mayor Mary Anne Graham called the meeting to order at 7:30 p.m.

**IN RE: PLEDGE OF ALLEGIANCE**

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

**IN RE: COMMUNITY POLICING REPORT**

Deputy Matt Bressler stated that it was a pretty average month - there were 18 traffic stops, 32 calls for service and 26 other calls generated by deputies for another purpose last month. He is currently splitting his time between Sugarland and Round Hill.

**IN RE: PUBLIC COMMENT**

Janet Clarke, Candidate for the Board of Supervisors, Blue Ridge District, introduced herself and passed out literature to the Council members.

Craig Fredericks, resident – 21 W. Loudoun Street, spoke and said that he had sent an email to Town Council members regarding the February 18, 2011 determination made by Town Planner and Zoning Administrator Rob Kinsley deciding that the request made by

the Round Hill United Methodist Church to complete their special exception requirements in phases was in substantial conformance with the original conditions set forth under the special exception permit. He requested that the Town Council revisit that decision.

**IN RE: APPROVAL OF AGENDA**

Councilperson Botsch moved that the Council add the issue of Town Planner Rob Kinsley's February 18, 2011 determination to the agenda as the #2 business item as the only change. Both Christopher Prack and Clarkson Klipple seconded his motion. The motion carried 3-2-0 with Janet Heston and Mary Anne Graham voting nay. Mayor Ramsey arrived at 7:42 p.m.

**IN RE: LOUDOUN COUNTY SUPERVISORS REDISTRICTING**

Mayor Ramsey noted that the amended Miller Plan #5 was the districting plan approved by the Board of Supervisors. "This plan was largely in line with what we were hoping for," he said, "as far as keeping the Town of Round Hill and JMLA together and keeping the district primarily rural."

**IN RE: REQUEST FOR REVIEW OF TOWN PLANNER ROB KINSLEY'S DETERMINATION OF THE RHUMC**

Councilperson Botsch said that this was an issue that was raised at the Land Use Committee meeting. Concerns were raised by a citizen and that citizen spoke here in public comments. Councilperson Botsch noted that there were two issues- 1. Does it (the determination) eliminate the sunset provision of the special exception permit and, 2. What kind of surface will be used in the parking area of the Church.

Town Planner Rob Kinsley detailed his decision making process for the Council. In his review, he said that the Church had two requests: 1. in relation to doing their construction, that construction be divided into two phases instead of one. "This primarily had to do with financing of the construction," Mr. Kinsley said. "They (the RHUMC) put together a schedule that showed out of the square footages for all the structures on the property what would be included and at what stage; what's there now, what would be added, what would be removed and what the total square footage would be at the end of the first phase of construction. Basically it would be – they would remove the trailer that is there, they WOULD NOT remove the two story addition that was done in the 50's that is painted white behind the church. They would leave that there – it is about 2800 sq ft. Then they would put out of the total proposed 18000 + sq ft addition that they had proposed, they would put in 13,608 sq ft of that right from the start and that would house the entire – where they would have their large services and other functions within their church. So when I did the math on that – they would have a total square footage of 20,300 on the property and under the special exception approval, they were allowed a total up to 22,000 when the entire addition was made. That is about 92 percent of their maximum authorized under the special exception. That being the case, I determined that was in substantial conformance with the special exception that was approved."

Councilperson Jennifer Grafton Theodore arrived at 7:50 p.m.

Mr. Kinsley said originally the new structure that was initially planned was going to be larger because the Church was going to demolish the existing 2 story building behind the existing structure. Instead, the old section will remain temporarily. Phase 2 is when they would demolish that and make the interconnection which will total another 5,000 sq. ft. He added that might not take place for another 10 years. The only sunset type clause in the special exception permit was the special exception approval would expire after 30 months if the Church did not submit a preliminary site plan. The second sunset provision would come into play only if the use itself stopped for two consecutive years, then the entire approval would be null and void.

Mr. Kinsley said he would want them to submit site plans for both phases today. Town Administrator John Barkley said they did not find any restrictions on the amount of time necessary to complete a project as long as work continued to take place on it; the definition of “work” being a matter of interpretation and determination made by the Zoning Administrator.

Mr. Kinsley agreed that they might want to clarify that with the applicant – that whatever was presented now... if you began a new phase of development in the future, the applicant would have to meet whatever ordinance requirements and restrictions that were on the books at THAT time.

Mayor Ramsey said, “If they wanted to build something 10 years from now then they should come in for a special exception permit 10 years from now.”

Councilperson Prack said that, “I am pretty certain that we made this pretty clear that this was something that needed to get done as expediently as possible and the idea was that it wouldn’t drag on forever due to the disruption of the neighbors and also their opposition to the plan to begin with, given the fact that they were within their legal bounds to do what they wanted to do and that they met the zoning and everything else and we approved the special exception – but it wasn’t an open book, or open ended to my knowledge. We extended the timeframe already to 30 months, the Pastor discussed it while he was here as did their agent. I feel like this whole process has been set in motion and now they are attempting to change the rules.”

Town Administrator John Barkley said, “I think we have seen where a special exception use has a sunset; an expiration of the use, where the applicant needed to come back to the table.”

Councilperson Prack said, “This was our concern about this whole thing to begin with. That something like this was going to happen.”

Councilperson Heston asked for clarification. “If someone gets a special exception and then they don’t do all of it, they only do a portion – is that in violation?”

Mayor Ramsey said, “There are mandatory conditions to the special exception. If they don’t meet those conditions, you can order them to correct the deficiency.”

Councilperson Heston, “So if someone decides that they can’t build as big as they originally thought – and they don’t, is that in violation? Can you force them to build it?”

Mayor Ramsey said, “If they don’t build a required element, then yes, they can be ordered to build more. As far as the overall size, Rob (Kinsley) made a decision that it was in substantial conformance as long as they kept the same amenities. We cannot substitute our judgment for the judgment of the Zoning Administrator. He has already given a determination that they are in substantial conformance.

Councilperson Botsch said, “The purpose of putting this on the agenda was to get clarification on the decision he made, given that there are now two construction phases yet a deadline of 30 months.”

Mr. Kinsley said, “Initially what I was asking is for them to give us the site plan for everything at once.”

Mayor Ramsey said, “If they bring in those site plans and they don’t execute the second one and it expires, are they then required to go and extend the special exception permit?”

“I think they would have to,” Mr. Kinsley said

Mayor Ramsey, “I agree with that interpretation as well. It would be good that the applicant knew that was your judgment as well so they understood what the full determination was. You need to get all your site plans in 30 months and if something doesn’t come in during those 30 months then you have to go get a special exception and if you DO bring one in and subsequently expires due to inactivity then you still need to get it extended via special exception.”

Vice Mayor Mary Anne Graham asked if Mr. Kinsley would be amenable to sending a letter changing his determination.

Mr. Kinsley said, “I would clarify those terms and point out the condition of 30 months.”

Mayor Ramsey concurred that, “I don’t think that would be in conflict of your original determination.”

Mr. Kinsley then addressed the second part of the discussion regarding the construction and components of the RHUMC parking surface. “In my letter,” Mr. Kinsley said, “I was saying I would not make a determination on the parking surface. It is part of the zoning ordinance that it has to be a hard, durable dust free surface. It depends how you construct it.”

Councilperson Botsch said, “I want to be as clear so that we understand it, so that citizens understand it so if they want to appeal it they know what they are appealing, also that the applicant understands what the conditions are.

Mayor Ramsey asked if Mr. Kinsley could also reiterate to the applicant that he did not make a determination in respect to the gravel and that the issue will need to be addressed through site plan. Mr. Kinsley agreed to do so the following day.

Vice Mayor Graham said, “I am concerned that there are going to be other requests.”

Mr. Craig Fredericks added further, “I would like to ask the question, ‘what role does the Council play in setting policies to help the Zoning Administrator determine what criteria he would like to apply when determining substantial conformance?’”

Mayor Ramsey replied. “Our role is to legislate as a Council and set policy for the operation of government, so I think that if there were changes to our zoning ordinance that require a better definition of substantial conformance that would belong in our ordinance and not be at the whims of the sitting Council at the time. In general the Zoning Administrator has the authority to enforce the laws as they are written. Rob (Kinsley) was making a determination with the tools that he has at his disposal. Whether we disagree with it or not, it is not our role to say he was wrong and here is the correct determination and ask him to issue it. It is well beyond our authority as a Town Council. We would be in real trouble if we started doing that so we need to respect the authority of the Zoning Administrator.”

Craig Fredericks questioned if the time limitation for appeals to the decision would be extended since there was what he considered a change to the determination made by Rob's agreement tonight to issue a clarification.

The answer was that this was a clarification and not a new determination; therefore, the time limits to appeal were the same 30 days from the initial determination – which expired March 18, 2011.

#### **IN RE: DRAFT SEWER ORDINANCE AMENDMENT**

Council members agreed to strike the clause “are listed in County materials list.” So the new language should read, “Systems meeting requirement of the Loudoun County design manual are the only systems that will be considered for installation at the Town of Round Hill and JMLA.”

Councilperson Heston asked about the issues that Loudoun Water had with grinder pumps and mentioned that also the engineer had sent some information to the Utility Committee that she thought was also going to be forwarded to the remaining members of the Council which she did not get. Vice Mayor Mary Anne Graham responded by saying that in regards to the issues that the County had with the pumps, someone had pointed out that their issue was an ownership issue. In the draft language for the Round Hill Town Ordinance, Ms. Graham said, it was made quite clear that the Town did not own them. The Vice Mayor also asked about whether the provisions of the ordinance extended to the contract the homeowners made when they purchased the home.

Mr. Dimoff said that the deed would reflect that each individual homeowner was responsible any for maintenance, including a 24 hour service contract and annual inspection of the grinder pump system.

Councilperson Heston asked if that would give us (the Town) legal standing if there was an issue.

Mayor Ramsey said the homeowner would also be in violation of the ordinance if they did not maintain their system.

Councilperson Heston said that, “I just wanted to make sure we were not that we were not putting ourselves at risk.”

Mr. Dimoff asked then what the procedure would be for obtaining approval of a subdivision wishing to utilize the grinder pump system.

Mayor Ramsey agreed that since the language in the draft ordinance injected the Town Council into the subdivision approval process, first the Council would have to approve any such system. Then the site plan would also have to be approved by the Planning Commission.

Vice Mayor Mary Anne Graham moved that the Town Council advertise the change to the sewer ordinance language as presented in tonight's meeting and put on the April Town Council meeting agenda.

Councilperson Botsch seconded her motion.

**The motion carried unanimously 6-0-0.**

#### **IN RE: FY2012 BUDGET**

Town Administrator John Barkley gave Town Council members a draft Capital budget for FY2012 and an amended draft General Fund budget for review. Mayor Ramsey

asked what sort of procedure would be needed if the Town wanted to pursue the option of assessing a cigarette tax. Town Administrator John Barkley said that the Town Council would need to take action soon and pass a resolution. A straw poll was taken and the majority of the Council members were in favor of Mr. Barkley drafting language for the resolution in time for the next month's Town Council meeting.

The line item for propane in the General Operating fund was increased. An increase was also made to the Parks line item for landscaping improvements, In the Capital Improvement budget, the major changes reflected an addition of \$1,000 to install the gateway signs, \$7,200 to purchase a copier machine instead of continuing to lease one and an influx of monies to fund the Franklin Park Trail System completion including storm water system improvements and installation of sidewalk pavers and crosswalks.

The Virginia Arts grant which the Town contributed money to Franklin Park and the Round Hill Arts Center was discussed and it was agreed to continue funding the grant in the same proportions as Franklin Park received more support from the Loudoun County as a whole than the Round Hill Arts Center did.

The Town garbage collection contract will be up for discussion and renewal at the next Town Council meeting in April.

Upsizing the Franklin Park pipe sizes is estimated to cost an additional \$63,000 in construction costs according to Dave Bowers of Stantec.

#### **IN RE: APPROVAL OF MINUTES FROM FEBRUARY 17, 2011 TOWN COUNCIL MEETING**

Vice Mayor Mary Anne Graham moved that the minutes be approved as amended – with one change to correct the spelling of Tobi Moriarty's name. Councilperson Heston seconded her motion. **The motion passed unanimously, 6-0-0.**

#### **IN RE: WESTERN LOUDOUN SHERIFF SUBSTATION LEASE RENEWAL**

Town Administrator John Barkley said that he had put tenets together with the lease provisions on the old form with allowing for a 3 percent increase in rent and incorporating a new provision to remove the 5 designated reserved parking spaces so that the Town could share the parking with the Bank of Clarke County at 21 Main Street. If the Town Council approved in form, he would send the document to the Town Attorney for review and the Mayor for signature.

Vice Mayor Mary Anne Graham moved that the Town Council give Mr. Barkley the authority to proceed with those actions.

Councilperson Prack seconded her motion. **The motion passed unanimously, 6-0-0.**

#### **IN RE: CHANGE ORDER WWTP BNR - SLUDGE BUILDING**

The change order to modify the design of the sludge building to enclose the area to keep ambient heat in and prevent the sludge from freezing as well as to add 2 rolling doors was estimated to cost a total of \$23,000. There was no vote needed and there were no objections made. The Town Administrator had the authority to approve the change order.

**IN RE: WATER SUPPLY PLANNING STUDY PEED & BORTZ**

Mr. Barkley said that this was a redo of what Anderson was originally contracted to do, but they had failed to deliver an adequate report. He explained the scope of this comprehensive study which would be completed in 180 days with an interim report provided as well. The study would look at the yield of existing wells to determine their viability and the money would come out of the utility budget but the dollar limit required Town Council approval.

Vice Mayor Mary Anne Graham moved that the Town Council approve the \$22,920 dollar figure for the study.

Councilperson Clarkson Klipple seconded her motion. **The motion passed unanimously 6-0-0.**

**IN RE: TOWN ADMINISTRATOR REPORT**

Committee meetings have taken place the last two weeks. Mr. Barkley said he was impressed by the meeting that took place with Mayor Ramsey, Councilmember Botsch and Supervisor Jim Burton. He believes that they have now engaged the County in our issue with Franklin Park.

There is no water/sewer draft agreement yet with the County.

A lease agreement has been drafted with Sprint and ATT and is in the County Land Use Approval process stage and then will undergo review by the Town Attorney.

**IN RE: TOWN PLANNERS REPORT**

Town Planning Commission members attended the Round Hill Business Owners Association meeting. No new planning commissioner volunteers have stepped forward yet.

**IN RE: MAYORS REPORT**

Mayor Ramsey said that he had received a response from Chief Brower of the Fire Department claiming that the Town was preventing them from accessing their hydrants yet they do not want keys to the locks on the hydrants.

**IN RE: UTILITY COMMITTEE**

Vice Mayor Mary Anne Graham reported that the committee was revising water ordinance language to include fire suppression systems. Peed & Bortz suggested that the prevailing connection fee should be assessed and that the systems should NOT be unmetered. She said that she will have something for Town Council review at the next meeting.

**IN RE: LAND USE COMMITTEE**

Land Use researched the possibilities of instituting a derelict building policy and decided not to pursue the matter further.

Creekside Development – the Snyder family is dealing with Richmond American homes and the deal fell through. They are open to rezoning the property to bring it into Town.

**IN RE: COUNCIL COMMENTS**

Councilperson Heston noted that postal delivery services will change. Purcellville will handle the sorting and delivery of mail from Round Hill but the Round Hill Post Office will still retain a counterperson for assistance.

Mayor Ramsey suggested, and the Council agreed that they needed to send a letter to Frank Wolfe regarding the necessity of keeping the Round Hill Post Office fully operational.

**IN RE: ADJOURNMENT**

With no further business or comments, Mayor Ramsey adjourned the meeting at 10:53 p.m.

Respectfully submitted,

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Scott Ramsey, Mayor

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Susanne Kahler, Recording Secretary