

**ROUND HILL TOWN COUNCIL
REGULAR MEETING MINUTES
September 17, 2009**

A regular meeting of the Round Hill Town Council was held in the Town Office, 23 Main Street, Round Hill, Virginia, on Thursday, September 17, 2009.

Council Present

John Heyner, Mayor
Mary Anne Graham, Vice-Mayor
Daniel Botsch
Janet Heston (arrived at 7:43 p.m.)
Mike Hummel
Chris Prack
Scott Ramsey

Staff Present

John Barkley, Town Administrator
Rob Kinsley, Town Planner/Zoning Admin.
Betty Wolford, Treasurer
Patsy Tappan, Recorder

Absent

N/A

Others Present

Deputy Vanessa Mertz-Meyers
6 Citizens

Attachments

- I. Agenda – September 17, 2009
- II. Waivers/Credits: Water and Sewer Billing
 - a. E-mail from Bruce Fleischer, 17194 Greenwood Drive
 - b. Invoice for plumbing services from Kay Symanski, 16 Jackson Avenue
 - c. Memorandum Reimbursement for Sharon Legg, 12 Main Street
- III. Domestic Water Block Calculations for Loudoun County Sheriff Substation
- IV. Shenandoah Valley Young Marines Request for Proclamation of Red Ribbon Week
- V. Identity Theft Prevention Program Summary
- VI. Town Council Meeting Minutes:
 - a. June 18, 2009 - Regular Meeting
 - b. July 23, 2009 - Special Meeting
 - c. August 20, 2009 - Regular Meeting
- VII. Peed & Bortz - Proposal for WWTP Upgrades, dated August 26, 2009
- VIII. Logics On-line Bill Payment Quote
- IX. Memorandum regarding Merchant Service Option, dated September 17, 2009
- X. Staff Report dated August 31, 2009: SPEX-2009-01 - Holtzman/Pennystone SPEX Amendment (Round Hill BP Station)
- XI. Ordinance Amending Section 15.5 "Variances - Procedure" of Article 15 "Board of Zoning Appeals" of the Round Hill Zoning Ordinance.
- XII. Ordinance Amending Article 19 "Violations and Penalties" of the Round Hill Zoning Ordinance
- XIII. An Ordinance Amending Article 14, "Landscaping and Screening" of the Town of Round Hill Zoning Ordinance

- XIV. An Ordinance Amending Section 5.7, "Landscaping" of the Town of Round Hill Subdivision and Land Development Ordinance
- XV. Town Administrator's Weekly Report, dated September 14, 2009
- XVI. Town Planner/Zoning Administrator Report, dated September 14, 2009
- XVII. Memorandum from Rob Kinsley, Town Planner Zoning Administrator, Planning Commission Actions - September 9, 2009
- XVIII. Utility Operations, Public Facilities & Projects Committee Meeting Notes dated September 11, 2009
- IX. Administration & Communications Committee Meeting notes, dated September 9, 2009
- XX. Memorandum from Betty Wolford, Town Treasurer: Additional Bill for Payment, dated September 16, 2009.

IN RE: CALL TO ORDER

Mayor Heyner called the meeting to order at 7:37 p.m.

IN RE: PLEDGE OF ALLEGIANCE

Vice Mayor Mary Anne Graham led council members and attendees in the Pledge of Allegiance.

IN RE: COMMUNITY POLICING

Deputy Vanessa Mertz-Meyers introduced herself and advised the Council that Deputy Chad Davis had resigned from the unit and she was covering the unit temporarily. She stated that there had been no incidents in Round Hill during the previous month. Mayor Heyner asked if Deputy Mertz-Meyers was still handling Lovettsville, as well. Deputy Mertz-Meyers responded that she was handling both jurisdictions until next month, when Deputy Matt Bressler would be taking over as the new Deputy for Round Hill. Mayor Heyner asked if she could accompany Deputy Restler to the next meeting to introduce him to the Town Council.

IN RE: PUBLIC COMMENTS

John Chapman of 35040 Patience Court in Stoneleigh, asked to be placed on the agenda to request a waiver for sewer charges. Mayor Heyner noted that Waivers/Reimbursements were already on the agenda, and asked if this was new information for the Council. Mr. Barkley responded that Mr. Chapman had presented his case that evening and suggested that he could be heard during the public comments portion of the meeting, or he could wait and be heard during the Business portion of the meeting. Mr. Barkley advised the Council that there were two waiver requests on the agenda, and Mr. Chapman had not previously been added to the agenda. Mayor Heyner suggested that Mr. Chapman wait, since the Waivers were the first item on the agenda for that evening.

John Couls asked if he needed to submit a special application to request a Special Exception at the next public meeting. Mayor Heyner suggested that he contact Rob Kinsley about the process, but he believed that an application for a Special Exception would need to be made by the property owner or Mr. Holtzman. Mr. Couls thanked the Council and stated that he would contact Town staff about the application.

There were no other public comments.

IN RE: APPROVAL OF AGENDA

Vice Mayor Mary Anne Graham moved approval of the agenda as submitted with the addition of Mr. Chapman's request for Waiver. Councilperson Mike Hummel seconded the motion.

Motion to approve the agenda as amended was approved by unanimous voice vote of the council present, 6-0-0.

IN RE: BUSINESS

1. Requests for Waivers/Credits: Water and Sewer Billing

a. John Chapman of 35040 Patience Court stated that he has a pool, and when he first built the house, he had wanted to drill a well, so he would not have to use City water for activities such as filling his pool, but Loudoun County advised him he would need approval from Round Hill. He then decided to go ahead and use Town water to fill his pool after emptying it to make some repairs and it cost him \$1,644.00 to refill it. He stated that he did not mind paying for the water, but he would appreciate some relief on the sewer bill. Mr. Chapman added that he realized it was not the Town's policy to grant this type of relief, but if that was the case, he wanted the Town to sign a Waiver to allow him to dig a well on his property. He stated that he would abide by whatever the Town decided, but he felt it would be fair to credit him for the 42,000 gallons of water that he added to his pool, since it did not go into the Town's sewer. Councilperson Hummel asked where he had emptied the water from the pool. Mr. Chapman responded that he had drained the pool onto the golf course, since it was early spring and the pool was mostly rainwater and it had no chlorine. Vice Mayor Graham asked if he had asked the Town previously for a Waiver. Mr. Chapman responded that he had called the Town and was told about the Town's policy and that he had to come and speak to the Town Council directly. He added that he had called the Town prior to filling the pool, and he was told about the policy, but he filled it anyway. Mayor Heyner asked if the Town staff advised him that it would probably be cheaper to have the water trucked in rather than using the Town system to fill the pool. Mr. Chapman responded, "No." Councilperson Ramsey stated that, historically, the Town had not granted Waivers for pools, and if they granted one for Mr. Chapman, it would be the first such Waiver granted since he had been on the Council. He added that he understood Mr. Chapman's situation and it may seem unfair, but the Town did not want to encourage outdoor water usage, especially for filling pools off the Town system; they would prefer if

people would truck the water in. Mr. Chapman stated that if that was the case, then the Town should sign a Waiver so he could drill a well. Councilperson Ramsey stated that since his property was in the watershed, the Town did not want him to drill a well, either, which were both long standing policies. He added that if the Town decided to change the policy, then they would have to change it for all residents, and not just make an exception for him. Mr. Chapman stated that he did not know how many Town residents had pools, but he felt like the Town was penalizing him for having a pool. Councilperson Botsch stated that had a pool, and knew exactly what Mr. Chapman was up against, but he agreed with Councilperson Ramsey that if the policy was changed, it would need to be changed for everyone. Councilperson Ramsey stated that it was difficult enough for the Town to get enough water for its residents, and they would much rather have pool water trucked in, and they would particularly discourage that type of water usage during times of shortage. He added that if there came a time when the Town had a more stable water supply, then at that time, they could consider encouraging that type of water use. Councilperson Botsch stated that he used rain barrels to fill his pool, and suggested that Mr. Chapman consider alternate water sources to fill his pool in the future. Mr. Chapman stated that he would not have a problem using rain barrels, and he did not have a problem paying for the water, but since he had to fill the entire pool, he felt the sewer charge was unfair. He responded to the suggestion about trucking the water in, stating that he had a pool liner which needed to be stretched out and filled slowly, so trucking the water would not be an option for him. He added that he understood about conserving water usage, since he had basically built all of the water lines in his area, and he has knowledge of the wells and what they produce. Councilperson Ramsey reiterated that they need to keep the current protocols in place until the water supply stabilizes, which also encourages residents to find other ways to fill their pools that do not pull water from the Town's system. Mayor Heyner and the Town Council agreed with Councilperson Ramsey that the Waiver was not warranted in this situation. Mr. Chapman stated that he understood the Council's position. Councilperson Ramsey advised Mr. Chapman that he was looking forward to bringing other wells on-line, because the Town should be able to sell water freely and not be in "conservation mode" all of the time. Mr. Chapman thanked the Council for its time. Mayor Heyner suggested that Mr. Chapman investigate his options before filling his pool in the future.

b. Bruce Fleischer of 17194 Greenwood Drive was unable to attend the public hearing. Mr. Barkley advised the Council that Mr. Fleischer was teaching a class every Thursday evening, so they would hear his case in absentia. He summarized Mr. Fleischer's situation and his request for reimbursement of \$620.00 for the installation of a water filtration system. Vice Mayor Graham stated that the Utility Committee had been asking if Mr. Fleischer had contacted the Town about brown water after the lines were flushed. Councilperson Prack noted that well #719 had also been shut down. Mr. Barkley responded that Mr. Fleischer had brought him a water sample that he said was taken after the lines were flushed and after well #719 was shut down. He stated that the sample spoke for itself and the brown water had continued. The Council discussed the fact that the iron and manganese had already spread into Mr. Fleischer's system. Mr. Barkley noted that Mr. Fleischer installed a charcoal filter and he was requesting reimbursement for the cost of installation. Councilperson Ramsey noted that the Town had discussed the possibility of reimbursing residents for filters, but they had wanted to wait until the lines were flushed and well #719 was taken off line, to see if the water quality improved. He added that Mr. Fleischer had moved ahead of the Town, but it was understandable with

Mr. Fleischer's issues. Mayor Heyner asked if there had been other reports of brown water in the area since well #719 was taken off line. Mr. Barkley responded that he had not received any other complaints. Councilperson Ramsey asked if staff knew if taking well #719 and flushing the lines had made a significant improvement to the water quality. Vice Mayor Graham asked if well #719 needed to be brought back on-line. Councilperson Prack responded that they had recently used the well for the Fire Department. Councilperson Ramsey added that the use had been a "recharge" for the training exercise. Mr. Barkley noted that Mr. Fleischer had indicated that the water situation had not changed, even after well #79 had been taken off line, although the Town did not have any way to verify this. Mayor Heyner stated that the Town could contact other residents who had registered complaints in the past. Mr. Barkley agreed that they could survey the residents in the well #719 zone. Mayor Heyner agreed that it would be a good idea to find out if Mr. Fleischer's case was isolated, because if it was isolated, then they may want to move forward with the reimbursement program. He asked for staff to contact Mr. Fleischer and let him know that they would not respond to his request until they had performed some additional research. Mr. Barkley asked if the Council was requesting that staff create a survey for this zone. Councilperson Ramsey suggested that they identify the range of homes that were affected by this problem, and then they could survey them. He added that if they bring well #719 back on-line, it may be more cost effective to reimburse a few residents for filter systems, than to pipe the water up to Evening Star Drive to clean it and bring it back down to this neighborhood. Councilperson Ramsey stated that they knew it would cost more to pipe the water than it would to reimburse 15 or 20 residents for carbon filters. Mayor Heyner responded that it would depend on whether or not they were talking about 15/20 filters or a great deal more. Councilperson Ramsey agreed that if they needed to have the whole Town install filters, then it would become cost prohibitive, and it would be important to know the scope of this situation. Vice Mayor Graham suggested that if other residents had problems, then the Town could decide on how to move forward. Mr. Barkley offered to perform a representative survey, just to see if any other neighbors had similar issues with the water. He asked if the Council would like him to take this request to the Utility Committee. Councilperson Ramsey responded that he would like to see Mr. Barkley and the Town staff move forward and present the findings to the Town Council. The Council members agreed. Mayor Heyner reiterated that Mr. Fleischer should be notified that the Town Council requested additional information.

c. Kay Symanski of 16 Jackson Avenue, stated that she lives by herself and has a well, but uses Town sewer. She stated that her request was twofold, since she was paying a flat rate for sewer, which was a minimum usage that jumped from \$29.50 to \$132.75. She stated that she received a letter from the Town offering her and her neighbors the option of paying the flat rate or the metered rate, and since she lives alone and the usage is minimal, she decided to pay the actual metered rate. It was discovered that she had no meter at her residence, and she could not understand how the house was built in 1987 without a meter, when all of the permits were approved prior to her occupancy of the property. She stated that she did not feel it was her fault the house had no meter, since she had assumed that the builder had followed through with all of the property utilities. She added that when she went to closing in 1988, there were four lots on this property, and they all had well water. Apparently, all of the other houses had meters. Mayor Heyner asked for clarification that the reason Ms. Symanski was unaware of the fact that she had no meter was due to her payment of the flat rate for sewer service up until the present. Ms. Symanski responded that he was correct. She continued, explaining that she made

arrangements with the Town for the meter to be installed at her own expense for the plumber. Her plumber coordinated with the Town for the meter installation, and the day of installation, the proper clamps for installation were not with the meter, so the plumber had to go back to Winchester to try to find the clamps, which had to be ordered, and she had to pay the plumber for another day to come back and install the meter. Ms. Symanski advised the Council that the plumber's bill was \$260, which may not seem like much, but it was a lot of money to her. She also wondered what her future billing amount would be, since she went from \$29.50 to \$132.75, and she was told by Debbie that the adjusted amount was \$76.90. She stated that she needed to know how much to pay and how often the meter would be read. She added that she was willing to pay half of the plumber's bill, but she did not feel it was fair for her to pay the entire bill. Ms. Symanski thanked the Council members for their time and consideration of her request. Mayor Heyner asked if the \$132.75 was the amount of her invoice for the sewer flat rate, and it was also the cost of the labor for her plumber. Councilperson Ramsey responded that it was probably the cost of 9600 gallons of sewer costs for her first cycle. He asked Ms. Wolford for clarification. Ms. Wolford responded that he was correct. Mr. Barkley clarified that the cost was based on an average after the meter was installed. Councilperson Ramsey noted that since the meter was installed in the middle of the billing period, which was why the bill consisted of a portion at the flat rate and a portion at the metered rate. He added that the next bill may even be lower, since it will be 100% at the metered rate. Ms. Symanski asked if the amount of \$79.60 was the metered rate. Councilperson Ramsey responded that it was a blend of the flat rate and the metered rate. Ms. Symanski stated that the bill she was referring to was dated August 21, 2009, which was sent very quickly after the meter was installed. Ms. Wolford explained that the billing period was for August 18 through August 27 - 9 days @ 4,500 gallons, which seemed rather high. Councilperson Ramsey agreed that it was curious, since the meter was installed on August 18, 2009; it sounds like she may have a leak. Mayor Heyner suggested that hold this request until the next billing cycle. Councilperson Ramsey stated that there were several issues involved. He explained that the rate of \$29.50 that she had been paying for the past 3-4 years, had been in error, with the actual flat rate amount at about \$60.00. She had an error in her favor for the past several years, and the Town was not seeking reimbursement of the difference. Ms. Symanski responded that it had not been her fault. Councilperson Ramsey stated that it was not the Town's fault that her plumber had not been prepared to install the meter the first time he came out. Ms. Symanski responded the her plumber told her the Town should have included the fittings with the meter, so she asked him to contact the Town directly. Councilperson Ramsey stated that the Town supplied the meter only and he asked if the meter had been delivered to the premises prior to the scheduled installation date. Mr. Barkley responded that the meter was delivered. Councilperson Ramsey advised Ms. Symanski that it appeared that the plumber was unprepared to install the meter and he had charged her an extra day. Ms. Symanski reiterated that her plumber had been in contact with the Town of Round Hill, and she had to take another day off of work to be at home on that day. Councilperson Ramsey stated that they could talk to Town staff to see if they were at fault for the delay, but from his understanding, her plumber was in error. Ms. Symanski responded that she believed that they would have a difference of opinion on that point. Ms. Wolford commented that the meter readings started at "0" on August 18 and on August 27, the reading was 4,540 gallons. Councilperson Ramsey continued, explaining that as far as the billing, he was curious about the use of 4,500 gallons in a nine day period, and he felt they should speak to Debbie in the morning and if they cannot explain the high usage, then they should have the meter read again tomorrow. Ms. Wolford asked if the meter was inside of

the house. Ms. Symanski responded that the meter was in the basement near the pump. She was told by Town employees that the meter could be read via radio signal from the street, and they even tested the signal from the street, which was successful. Mayor Heyner and the Council members discussed the possibility of a leak in the pipes outside the house, which may be causing the high reading. Mayor Heyner suggested that if there was a leak outside the house, then the meter would not register that leakage. Councilperson Ramsey suggested that they use the current reading and apply it retroactively to the previous period, since there was some question about the meter reading. Ms. Symanski asked if she should pay the current bill, since Debbie had suggested that she wait until the Council made a decision. Councilperson Ramsey recommended that she pay the bill to keep her account current, and then they could work it out in the next billing period. Mayor Heyner agreed that they normally recommend that residents pay the bill and then the Town could reimburse any overpayment. Ms. Symanski stated that if the \$70.96 bill was due, then she would just write a check to Ms. Wolford that evening, but asked if there would be an adjustment on that bill. Councilperson Ramsey responded that it would depend on the readings for the last month. Ms. Symanski stated that she would leave a check so her account was not in arrears. Vice Mayor Graham asked Mr. Barkley to ask the staff if the meter did not have the adapters included. Mr. Barkley stated that he would double check, but added that the Town crew had spent an inordinate amount of time and several visits to Ms. Symanski's residence to make sure this meter was ready to install. The Town would proceed to investigate the sewer bill and the corrections could be handled administratively, but the cost of the plumber may be a different story. Councilperson Ramsey commented that the plumber may not have had the proper parts on the truck. Mayor Heyner advised Ms. Symanski that Town staff would continue to work with her to resolve both of these issues.

d. Sharon Legg of 12 Main Street. Mr. Barkley referred to the Memorandum that was included in the packet and stated that the Utility Committee had talked about this briefly, because two separate properties had their meters cross-wired. Councilperson Ramsey stated that the meters were cross-wired and the readings for one house were being credited to the other houses account and vice versa. Vice Mayor Graham asked if the meters were cross-wired or if the numbers were just mixed up. Councilperson Ramsey responded that the meter numbers were associated incorrectly. Mr. Barkley commented that he felt he could work out the details with the two property owners, and that he did not feel that Town Council action was required. Mayor Heyner agreed and stated that he was curious as to why this item was on the agenda. Mr. Barkley responded that after staff had sent out the packages, he had spoken to Ms. Legg and he believed it would be worked out administratively. Councilperson Ramsey added that he had spoken to Mr. Wolverton about the situation, and they were hoping to have a summer intern next year who could help the Town survey all meters to ensure that the proper meter is matched with the proper address.

2. Request for Extension of Water and Sewer Utilities: Western Loudoun Sheriff Substation

Vice Mayor Graham reported that a representative from the County had attended the Utility Committee meeting and requested that water and sewer be extended to the proposed Sheriff Substation site. Town staff and Peed and Bortz had reviewed the information provided by the County and they were awaiting additional information. Mr. Barkley commented that they

had granted Loudoun County's request to have an audience with the Utility Committee, and the Town was not at a point where it could make a determination. The Council members discussed the possibility of having a viable septic field on the property, which the County claims is possible, but other people who are familiar with the property disagree with that assessment and do not believe the property could handle the proposed load without the help of Town sewer. Vice Mayor Graham suggested that Peed and Bortz perform a limited study of the site; not a study to see if the site would perk, but rather taking some of the information that had been provided and decide if this is a viable conclusion. Councilperson Ramsey asked to what end the Town would need to perform this study, since the Town did not provide septic systems. Councilperson Prack commented that if the Town refuses to provide the County with water and sewer utilities, then they plan to drill their own well and build their own septic field. If the property did not have a viable septic site, then they would have no choice but to go with the Town for those services. Vice Mayor Graham stated that they were considering the possibility that the County might offer additional contributions to the Town's infrastructure, or a well site, but they know that wells that have been given to the Town in the past had not been very productive. She suggested that they continue to gather information before the Town issues the "will serve" letter. Councilperson Ramsey stated that Peed and Bortz was going to have an exchange of information with their engineer over fire flow issues, but he thought it was a minor issue that would only be a matter of one phone call to resolve. He believed that with that information, Peed and Bortz was going to be ready to say that all of the paperwork was in order, they just wanted to check this one fact before they would say that the flow estimates seem appropriate. He asked Vice Mayor Graham what else she would like Peed and Bortz to do. Vice Mayor Graham responded that she felt it would be worth further investigation with the Health Department. Mayor Heyner asked why she felt it was their responsibility to investigate the septic field. Vice Mayor Graham responded that they had been told that the County could install well and septic if the Town does not give them water and sewer, and there may be a possibility that they could not have well and septic. Mayor Heyner responded that if that was the case, then the County would find out and come to the Town for water and sewer hook ups. He added that the County was currently in the design process for a Special Exception and it was not fair for the Town to be dragging them along. He felt that they needed to tell the County whether they were going to serve the Substation or not. Councilperson Hummel asked if the Utility Committee had discussed a water/sewer tap fee for this project. Councilperson Ramsey responded that the fee is based on the meter pipe size and asked Ms. Wolford for the fee schedule. While Ms. Wolford retrieved the information, the Council members discussed the fact that the County would be paying a sizeable tap fee, which would be higher than normal, as well as paying for the extension of the water main to their property. The Town would perform the normal work and inspections, but there had been no unusual conditions identified for this particular property. Councilperson Ramsey advised the Council that 3-inch hook-up would be \$68,000 for the water and \$156,000 for the sewer, or a total of \$224,000, which would help pay for infrastructure. He added that they may want to ask for a well site, since the County was not planning to develop the rear portion of the lot. Councilperson Hummel asked if the County could not find a viable well site on their property, could the Town consider developing another well site for the same amount of money. Councilperson Ramsey responded that he was suggesting that the Town ask for a well site, but not necessarily a developed well site. Councilperson Hummel asked what the Town would do if there were no viable well sites on this property. Vice Mayor Graham asked how long the Town would wait for a well site to appear. Councilperson Hummel responded that it

would be up to the Town, but they could not wait forever. He added that he was not advocating that the County put a well on this property, but if that path was pursued, then he did not feel that they should force the County to place a well on their property if it would not yield. The Council members agreed. Councilperson Ramsey noted that he was suggesting that the County section off a portion of the property they were not planning to develop as a well development site. If the site testing was positive, then the County could give the site to the Town for future development. He added that if this was a possible scenario, and the County had an area of their site that they were not using, and they do not mind if the Town digs a well there, then the Town they should go ahead get their agreement right away. Councilperson Botsch asked if there were potential well sites on the property. Councilperson Ramsey responded that if the County claimed that they could use well and septic, that they must have had the property surveyed. Mayor Heyner responded that the County was only testing for a well large enough for the proposed structure, and they did not know if the potential well would be large enough for the Town. Councilperson Ramsey stated that if the well only had enough flow for the development, then it would probably not be large enough for the Town to develop. Councilperson Hummel stated that they were only speculating, but the report submitted by the County indicated 3,000 gallons per day for sewer, which was about the same as 10 houses with septic fields, and it did not appear that the equivalent of 10 septic fields would fit on this parcel. The Council members discussed the fact that the Town would have to accept whatever system the County decided to use, and the fact that alternative systems would be allowed for a public use. They could also use an alternative treatment system, which would not be in the Town's best interest. Councilperson Ramsey stated that if all of the engineering had been done satisfactorily, then his opinion was to issue the "will serve" letter with the proviso that the Town should investigate the well site first. He added that this was an area of Town where they do not have a well, so it would be nice to have a location for the future. Mayor Heyner suggested that the Town ask for all of it. Vice Mayor Graham suggested that they either consider the well, or a donation for infrastructure. Councilperson Ramsey suggested that they require the County to find a well site, and if they cannot find a site, then they could pay a flat fee, and at least the County would have certainty, without expending as much as the availability fee. Mayor Heyner suggested that they talk to the engineer about these issues. Mr. Barkley advised the Council that Peed and Bortz had not responded, although they would get the report back to the Council as soon as possible. Mayor Heyner suggested that they wait for the report, and then they could respond with a "will serve" letter with some conditions; such as setting aside a well site on their property, installing a well if one would yield, and if not, there would be a predetermined contribution. Councilperson Botsch asked what the requested yield would be. Councilperson Ramsey asked for staff to speak to the engineer for his recommendation. Mayor Heyner added that he would like a number for a cash value of installing a well. Mr. Barkley stated that he had spoken to Lou Rauch who had asked if the Town Council would like him to attend a future meeting to discuss the issue. Mayor Heyner responded that he did not feel it would be necessary. The Council members agreed that Mr. Rauch did not need to attend a future meeting.

3. Request for Proclamation: Red Ribbon Week October 23-31, 2009

Mayor Heyner referred to the materials provided by the Shenandoah Valley Young Marines that were included in the packet and noted that it seemed like an innocuous request. He asked if the Council members had any opposition to approval of a proclamation for Red Ribbon

Week in October. In response to questions from the Council, Mayor Heyner noted that the request was for the Town to proclaim red ribbon week and to distribute red ribbons. The Council members discussed the fact that materials arrived via e-mail and they had not heard of this group. Mr. Barkley commented that a proclamation for 2008 for Middletown had been included in the packet, but there was no sample for a Round Hill proclamation. Mr. Barkley advised the Council that he had spoken to a representative of this organization, but stated that he would be happy to conduct further research into the legitimacy of the organization prior to Council approval of the proclamation. Councilperson Ramsey suggested that they defer this item until the following month, and pending verification, he would be inclined to vote in favor of the proclamation. Mayor Heyner asked for staff to request references for this organization and to draft a Resolution for the Council to approve at the next public meeting.

4. Identity Theft Prevention Program - Annual Report

Councilperson Botsch advised the Council that this program had been discussed at the Administration Committee, and according to our policy for the Identity Theft Program, Mr. Barkley should make a presentation to the Town Council annually. Mr. Barkley added that the program was adopted by the Town Council several months prior, and he advised the Council that he would recommend that they defer the report until the program had been in place for one year to allow data to be collected. The program focuses on protecting the identity of residents who conduct financial transactions with the Town, and the first action taken was to create a Security Checklist over the next year. The Detection of Red Flags section of the policy, which is on file in the Office of the Town Administrator, would become the Security Checklist for Town employees who facilitate financial transactions. He added that he would report to the Council with a complete annual report after the budget is approved in 2010. Mr. Barkley stated that the committee currently consisted the Town Treasurer, and himself, and he did not believe that they needed additional committee members to perform the required tasks.

IN RE: ACTION ITEMS

1. Approval of Meeting Minutes

a. June 18, 2009 Regular Meeting Minutes

Vice Mayor Graham moved to approve the June 18, 2009, Regular Meeting Minutes as presented, with Councilperson Heston seconding the motion.

The motion to approve the June 18, 2009, meeting minutes passed by voice vote of the Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye

Scott Ramsey Aye
Chris Prack Aye

b. July 23, 2009, Special Meeting Minutes

Councilperson Botsch noted his absence for this meeting, which was not shown in the minutes.

Vice Mayor Graham moved to approve the July 23, 2009, Special Meeting Minutes as presented, with Councilperson Heston seconding the motion.

The motion to approve the July 23, 2009, Special Meeting Minutes as presented passed by a voice vote of Council present, 5-0-1, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Abstain
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

c. August 20, 2009 Regular Meeting Minutes

Vice Mayor Graham moved to approve the August 20, 2009, Regular Meeting Minutes as presented, with Councilperson Heston seconding the motion.

Vice Mayor Graham noted that the minutes were comprehensive. Mr. Barkley asked if the Council approved of the level of detail that was included in the minutes, or if the Council would prefer more "paraphrased" minutes. Councilperson Botsch stated that he had missed the meeting, and after reading the minutes, he felt he had been brought up to speed on the business that took place. Councilperson Ramsey agreed that as long as they could guarantee the accuracy, the more information included, the better. Mayor Heyner asked if the Council members had time to review the minutes. Councilperson Hummel stated that he would like to have more time to review this set of minutes. Mayor Heyner suggested deferral of the minutes until the next public meeting.

The motion to approve the August 20, 2009, Regular Meeting Minutes did not pass by voice vote of the Council present, 0-4-2, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Abstain
Mike Hummel	Nay
Janet Heston	Nay
Mary Anne Graham	Nay

Scott Ramsey Abstain
Chris Prack Nay

Mayor Heyner asked staff to include the minutes of the August 20, 2009, regular meeting on the agenda for the October 15, 2009, regular meeting. He suggested that the Council members review future minutes prior to attending the meetings to avoid further deferral of the minutes.

2. Round Hill Arts Center: Authorization of Grant Funding

Mayor Heyner commented that during the last 60 days, the Round Hill Arts Center Board of Directors had parted ways with Wally Johnson and the Old Furniture Factory building in Round Hill. He explained that he met with Lisa Zimmer-Chu to discuss options for alternate sites, including the Hill High Orchards location, which had apparently come to fruition. Mayor Heyner commented that the funding that was previously earmarked for the Arts Center, would be critical in facilitating the Center's move into the Hill High Orchards location, and this would be an opportunity for the Town to release those funds.

Lisa Zimmer-Chu, Interim Board President of the Round Hill Arts Center, stated that they currently had a draft of the lease, and were prepared to pay the security deposit next week, so the build-out could commence. They would be located in the northwest corner of the building, which is a warehouse space with ample parking. This would be an exciting opportunity for the Arts Center; a new beginning, but since they were already established in the area they hoped to grow into a self-sustaining non-profit. She added that they would appreciate the support of the Town in their new location. Councilperson Hummel asked how people would know the Center was back there. Ms. Zimmer-Chu responded that they would need to work on adequate signage. The Hill High Orchards owner is very excited about having the artists in this location, and she feels that the entities would be very compatible in the building. They plan to expand the Hill High Orchards store from a place to buy pies and sandwiches, to a destination to purchase the work of local artists, take classes and even buy wines from local vineyards in the future. Vice Mayor Graham asked if the Arts Center planned to have concerts at their new location. Ms. Zimmer-Chu responded that the Old Furniture Factory would be continuing the Blue Grass Jams, and the Arts Center had no intention of competing with them. They do, however, see the potential for hosting wonderful music events at their new location, with the pond and the high ceilings, The build-out would be for classes and the artist's cooperative exhibit space, but in the future, music would also fit into their mission. Mayor Heyner stated that they were glad the Arts Center would remain in the area. Councilperson Heston asked for a recap of the requirements for the funds being requested. Councilperson Ramsey responded that the funds were from a state arts grant with \$5,000 coming from the Town and a \$5,000 match from the state. The Arts Center was penciled in to receive 85% of the funding. The Council members discussed the requirements of the grant, which encouraged the arts and must be given to a registered non-profit or other qualifying organization or school. Mr. Barkley explained that the Town had included literature from the Arts Center when they submitted the application for the funding. Councilperson Heston asked what the Arts Center would use the money for. Councilperson Ramsey stated that in the past, the Town had not placed limitations on the funding, since they had given the money to organizations that the Town was familiar with.

Councilperson Heston noted that since the Arts Center was moving and changing their activities, she was concerned that they would no longer qualify for this funding. Councilperson Ramsey responded that the only significant activity that was being eliminated was the monthly jam sessions, but the classes and other activities would continue. He asked Ms. Zimmer-Chu if the Arts Center was planning to provide the music services for the Hometown Festival. Ms. Zimmer-Chu responded that they were. Councilperson Ramsey noted that there had been an expectation that this recipient would use the Town's arts funding to help provide community music at the Hometown Festival. Councilperson Heston commented that since this organization had planned to do something different, she just wanted to make sure that they still had that understanding.

Councilperson Ramsey moved for the Town to release the program grant funding for the Round Hill Arts Center. Councilperson Heston seconded the motion.

The motion for the Town of Round Hill to release the program grant funding for the Round Hill Arts Center passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

3. WWTP Upgrades: Proposal to Provide Design and Construction Administration Services

Vice Mayor Graham referred to the Peed and Bortz proposal for professional engineering dated August 28, 2009, which was included in the Council's packet, and stated that the Utility Committee had discussed the proposal and recommended approval of the contract. She added that the Council had discussed this proposal at the July Special Meeting. Mayor Heyner noted that some circumstances had arisen that may impact this decision. Councilperson Ramsey responded that there were circumstances, but they would not impact the Council's decision to approve this contract, but they may impact the decision made by the Council at the end of this program. He explained that the Town may have to decide whether to build a 750,000 facility and get credit for 500,000 or just build the 500,000 facility. Vice Mayor Graham asked if they had heard back from Peed and Bortz. Mr. Barkley advised the Commission that the panel was meeting in Richmond the following day, and Mr. Jackson of Peed and Bortz had requested to attend. Mr. Barkley stated that he was sure that Mr. Jackson planned to attend, but he could attend also, if the Council would like him to attend. Councilperson Ramsey responded that he would prefer that Mr. Jackson not attend alone, since he was not an employee of the Town. Councilperson Prack asked if Mr. Wolverton planned to attend, since he was familiar with the situation and could articulate the Town's position. Mr. Barkley responded that he was not sure if Mr. Wolverton planned to attend. Councilperson Ramsey suggested that either Mr. Barkley or

Mr. Wolverton should accompany Mr. Jackson to this meeting. He explained that the meeting was about the state's allocation for phosphorous and nitrogen based on their 750,000 gallon design capacity, even though they only had a 500,000 capacity currently, they were planning to expand in the future. The state's pursuit of allocations for an industrial user had caused the state to look at plants that were below their allocation, including Round Hill, Leesburg and other municipalities. The DEQ sent the Town a letter advising them that they planned to possibly remove the Town's allocation, which was going to be discussed at this meeting. Councilperson Heston noted that the Council had discussed drafting a letter justifying why the Town needed these credits. Councilperson Ramsey responded that Peed and Bortz had sent the letter. Mayor Heyner asked who had signed the Peed and Bortz letter. Mr. Barkley responded that Mr. Jackson had signed the letter from Peed and Bortz, confirming receipt of the DEQ's letter and requesting to serve on the regulatory committee. Councilperson Ramsey stated that Mr. Jackson had also prepared a technical letter and asked if that letter had been sent. Mr. Barkley responded that only one letter had been prepared and sent to the DEQ. The Council members discussed the fact that the letter drafted by Mr. Jackson had included enough technical data to explain why the Town needed to preserve its allocation. Mr. Barkley stated that he had drafted a letter targeted at the politicians, but it had been critiqued by Mayor Heyner, and had not been sent. Mayor Heyner asked Mr. Barkley to forward the edited version to his attention. The Council members discussed the reasons why Mr. Wolverton had not requested appointment to the committee, since he felt that since Mr. Jackson was a Professional Engineer, he was better qualified to represent the Town's interests.

Vice Mayor Graham moved to approve the Peed and Bortz WWTP Upgrades - Design and Construction contract. Councilperson Ramsey seconded the motion.

Councilperson Botsch asked for clarification that this contract was to investigate Alternatives 3 & 4, which Peed and Bortz estimated would cost about the same. The Council members discussed the minutes from the Special Meeting of July 23, 2009, stating that Mr. Lane had told them that the design for both alternatives would be the same, but the cost of construction would be different for the two alternatives. Councilperson Hummel asked for clarification of paragraph E. Compensation of the proposal. Councilperson Ramsey responded that the amount was actually below the numbers presented in the PER, since the utility staff would handle some of the work. Mr. Barkley explained that the standard Rural Development fee curve was probably an industry standard, and it would not affect the contract, since the compensation was based on a lump sum fee.

The motion to approve the Peed and Bortz WWTP Upgrades - Design and Construction Administration Services contract passed by a voice vote of Council present, 5-0-1, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Abstain
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

4. Automated Payment System: PNC Bank

Councilperson Botsch advised the Council that the Administration Committee had discussed using Logics for automated payments, but found the cost to be prohibitive. He outlined the fees which were included in Logics' estimate that was included in the Council's packets. Mr. Barkley distributed a Memorandum dated September 17, 2009, from Betty Wolford, Town Treasurer, which outlined a Merchant Service Option offered by PNC Bank. Ms. Wolford outlined the fee schedule, which included a one-time Start-Up fee of \$345.00 and monthly transaction fees of 2.15% credit card fee and transaction fee of \$0.20 and internet service fee of \$0.10 charged by each Credit Card for this service. She explained that the Town could recover these fees by charging a "Convenience Fee" for each transaction, and stated that PNC bank had recommended that the Town begin with \$2.50 per transaction, and then review the fees after 6 to 12 months. She added that the fees would be incurred by residents who paid their utility bills by credit card either over the internet, over the phone or if they came into the office. Ms. Wolford explained that set-up would take about a week to create the tab on the website and instigate the service. Vice Mayor Graham asked if PNC account holders could have these charges waived by the bank. Ms. Wolford responded that PNC Bank had offered to waive its fees, but the transaction fees were charged by the credit card companies and could not be waived. Councilperson Ramsey stated that the same transaction fees would be charged by Logics. He suggested that if the Town charged \$2.50 for customers who paid by credit card, and did not charge a fee to customers who continued to pay by check, it would seem that the Town was punishing credit card users who help the Town's cash flow, and not punishing people who were not helping the Town. He added that it seemed that credit card transactions would take less staff time and energy to process. Ms. Wolford responded that she felt it would take the same amount of time to process all transactions, and they would be sending out paper billing either way. Councilperson Heston stated that it would truly be a convenience for customers who wanted to pay their bills on-line rather than coming in person to the Town office. Councilperson Ramsey stated that he thought the on-line transactions would be good for the Town in terms of administrative savings, which may not be the case, but if it was going to save the Town, he was going to suggest that the Town waive the "Convenience Fee" to encourage people to switch to on-line pay. He added that if the Town chooses to adopt the transaction fee, it may slow participation in the program. Councilperson Heston asked how this service would affect people who pay their bills on-line with a debit card. Ms. Wolford responded that customers could use debit or credit cards, but the fees would be the same for both. Councilperson Heston asked about on-line bill payment through banks. Mayor Heyner responded that the banks send out checks on the customer's behalf. The Council members discussed investigating electronic funds transfers, since it was an option that would not incur additional fees. Councilperson Botsch responded that he would discuss the option with the Administration Committee, and asked if staff could get the electronic funds transfer information for the Committee. He asked if the Council felt that incurring additional fees for bill payment would antagonize residents who were already upset about the cost of water and sewer services. Councilperson Ramsey responded that he felt that if these services would help the system run more smoothly, he would suggest that they amortize the transaction fees across the entire system, rather than charging convenience fees to their customers. Vice Mayor Graham responded that as a customer, she would object because she would not want to be charged for others who use their credit cards. The Council members discussed other businesses that charge a convenience fee for paying with credit cards, and the

fact that most customers are willing to incur these charges for the convenience of paying on-line. Councilperson Botsch noted that when they began their research into these services, the intention was to make payment more convenient for their customers, not to antagonize them. Councilperson Prack suggested that they offer all of the options to their customers, and he felt that people would be willing to pay \$2.50 for the credit card option. Councilperson Ramsey stated that he thought they should encourage customers to pay on-line, since many customers forget to pay on time, and the idea was to improve timely payment. Mayor Heyner stated that he paid all of his other bills on-line and at the very end, he had to write a paper check to the Town of Round Hill for his water payment.

5. Public Hearing Items

1. Application for Holtzman Oil Corporation (lessee) and Pennystone, LLC (owner) for an amendment to the Special Exception: Removal of public access easement condition.

Mayor Heyner noted that this item was heard at public hearing was held on September 3, 2009, and there was no public comment directly related to this issue. They did receive a unanimous recommendation from the Planning Commission to remove this Special Exception condition for the easement. Councilperson Hummel stated that they were not removing Special Exception condition, but there was a note on the plat. Mayor Heyner noted that the Special Exception had already been approved. Councilperson Ramsey noted that the application under consideration was for a Special Exception Amendment.

Councilperson Ramsey moved to approve the removal of the easement from the plat as a condition of Special Exception, SPEX 2009-01; and to remove the "subject to the recording of the Public Ingress/Egress Easement Plat and Deed of Easement" clause from its approval of the Site Plan. Vice Mayor Graham seconded the motion.

Councilperson Heston asked how this amendment would affect the sidewalks on this property. Mayor Heyner responded that the original entrance that was designed as part of the Franklin Park Trail project straddled the Gem Ram property and the Pennystone property, but only a small portion was on the Gem Ram property. The reason why the easement was part of the Special Exception, was because the Town wanted the property owner to be able to use part of the apron. Councilperson Ramsey explained that VDOT had since redesigned the sidewalk plan so there is adequate ingress and egress to both properties, so the need for this condition is now removed. The Council members discussed the fact that when this plan was originally designed, it was designed without consideration to Dr. Hudler's property. The condition for the easement was placed on the property by the Town Council in reaction to the VDOT design, and now that the VDOT design had changed, the easement was no longer necessary. Councilperson Botsch commented that with the new design, they would be losing 20 feet of sidewalk. Mayor Heyner clarified that the Council was not voting on the entrance, they were voting on the removal of the easement. Councilperson Botsch commented that he had questions for Mr. Holtzman pertaining to the fact that this item went through the planning process, public hearings and Town Council approval, and apparently, Pennystone was not aware of this easement and only after it was approved said they were not going to comply. Mr. Holtzman has said that he was not aware of the approved operating hours, and the agreement is falling apart because they have been talking

to the wrong people. Mayor Heyner stated that this had nothing to do with the easement. He suggested that they vote on the motion and then discuss the other issues later. Councilperson Botsch responded that he understood the need to vote on the motion, but stated that he did not believe that the issues were unrelated. Mayor Heyner explained that there were two things that came into play with regard to the size of this entrance. One was the fact that Pennystone had not wanted to honor the easement and the other was the fact that the owner of the Gem Ram property had threatened legal action to stop the construction of the Franklin Park Trail project if the Town proceeded with the proposed design because they did not have proper access to their property. The Town met with the County and VDOT and said that the Town did not want to dictate what action was taken and asked VDOT to work with the County and get the Franklin Park Trail project completed. The minimum they will allow is 30 feet for a commercial entrance on either property, and that is how they redesigned this project, allowing the Town to remove the condition for the easement. He added that the Planning Commission had requested an additional 10-foot sidewalk, but due to the fact that if the Franklin Park Trails project is not put out for bid by February/March of 2010, the money will be gone and it would not get built. The reality is that if they want the project to get built, they need to allow it to move forward without any changes. Councilperson Botsch stated that he was unhappy that the Town "had a gun to its head." Mayor Heyner responded that they did not have control over the County in this situation, and the deadline for the funding was coming to an end. Councilperson Ramsey stated that there was no guarantee, even if Pennystone had agreed to the easement, that VDOT would not have redesigned the project on their own terms. Councilperson Botsch stated that he would have liked to see people deal with this in good faith. Councilperson Ramsey stated that Mr. Holtzman agreed to the condition with the belief that it would not affect the landowner, and perhaps he assumed too much. At the time, it was such a minor condition, except to Pennystone, LLC. Mayor Heyner agreed with Councilperson Botsch, stating that the Town should not have allowed Mr. Holtzman to agree to the conditions without including Pennystone as a party to the discussions. Councilperson Ramsey noted that both parties were listed in the documents, but Mr. Holtzman was acting as the agent for both parties, which is a common practice with developers. Councilperson Hummel stated that at the Planning Commission level, they had discussed methods to avoid this type of situation in the future, such as requiring the landowner to sign the proffers. He added that in the "Special Exception" world, conditions are required by the governing body and landowners would not necessarily sign agreement for those conditions. The Planning Commission was asking if there was a way to have the landowner notified, because they feel this is a flaw in the system. He added that he did not feel that Mr. Holtzman did anything wrong at the Planning Commission stage, because the landowner was notified of the hearing and the fact that this item would be voted upon, and they did not attend. Rob Kinsley, Town Planner/Zoning Administrator stated that it was his understanding that after Mr. Holtzman agreed to the condition, he contacted the owner and she did not have any problem with it. Her attorney came forward later and said that they did not want to accept the condition.

Gene Hammond stated that he represented Holtzman Oil and Mr. Holtzman, and he confirmed that Mr. Holtzman spoke to Mrs. Roby and she signed the original application document. He apologized for not having his file with him, but when Mrs. Roby's lawyers got involved in the situation, there was a dispute with the other property owner and they did not want to give their permission, so a "tug-o-war" ensued. Apparently, this dispute had gone on since 2001 and they had tried to upgrade this site for that amount of time.

Mayor Heyner asked for clarification that the attorney for Pennystone contacted the attorney for Mr. Albright in order for them to reach a mutual easement.

Mr. Hammond responded that was his recollection of the information from his file, and that was how this situation became such a "tug-o-war." Mrs. Roby had not had a problem, but the attorneys had the problem.

Councilperson Botsch stated that it was a shame that the Town was losing sidewalk right in front of the park. Mayor Heyner stated that even though they were not going to have traditional curb and sidewalk, the construction would be concrete and it would create a visual apron, and this meets VDOT's standards. Councilperson Heston asked if the gas station could not go forward with their canopies until this condition is removed. Councilperson Ramsey responded that Holtzman could not move forward with any work on his Site Plan until the condition was removed.

The motion to approve the removal of the easement from the plat as a condition of Special Exception, SPEX 2009-01; and to remove the "subject to the recording of the Public Ingress/Egress Easement Plat and Deed of Easement" clause from its approval of the Site Plan passed by a voice vote of Council present, 4-2-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Nay
Mike Hummel	Aye
Janet Heston	Nay
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

Mayor Heyner commented that the Planning Commission had asked that the Council go back to VDOT and ask for another 10 feet of sidewalk or a reduction of the entrance by 10 feet, but as they previously discussed, they had run out of time to request changes.

Sarah Etro, Vice Chair of the Planning Commission, stated that the request was to see if there was any way to adjust the design and ask the question if they could make a safer sidewalk. She added that it was never the intention of the Planning Commission to go through a three month design process with VDOT. Vice Chair Etro stated that she worked for the County in 1990 when VDOT was designing the entrance to Evening Star Drive. There were plans to remove an old Sycamore tree to make way for the turn lane, and she attended the meeting the County had with VDOT and voiced her concerns to save the tree, and VDOT agreed. She did not feel it would be a problem if VDOT had not finished their drawings.

Mayor Heyner advised Vice Chair Etro that the design was finished and the County had advised him that this project was in jeopardy.

Vice Chair Etro responded that it was the County's fault that the project was in jeopardy, since it had been six years since they began. She was under the impression that VDOT was making changes to the design based on Round Hill's conversation with the County.

Councilperson Ramsey responded that they had finished the design, then they went back and changed the design to reapply the new standards. Mayor Heyner added that the standards had actually changed between the time that the first drawings were completed, and when they made changes to this entrance, they had to go through the entire plan and adjust everything to the new standards.

Ms. Etro asked what they would have after all of the changes.

Mayor Heyner responded that there would be a 60-foot entrance. The other standards that were adjusted were minor technical adjustments.

Ms. Etro thanked the Council and reiterated that the Planning Commission had no intention of "putting a wrench in the works."

2. Text amendment Section 15-5.3 B "Required Standards for Variances" of Article 15 "Board of Zoning Appeals" of the Round Hill Zoning Ordinance.

Mayor Heyner noted that this amendment removed the term "approaching confiscation" from the granting of a variance.

Councilperson Ramsey moved to approve the Ordinance Amending Section 15.5 "Variances - Procedure" of Article 15 "Board of Zoning Appeals" as submitted. Vice Mayor Graham seconded the motion.

The motion to approve the Ordinance Amending Section 15.5 "Variances - Procedure" of Article 15 "Board of Zoning Appeals" passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

3. Text amendments to Article 19 "Violations and Penalties" of the Round Hill Zoning Ordinance.

Vice Mayor Graham moved to approve the Ordinance Amending Article 19 "Violations and Penalties" of the Round Hill Zoning Ordinance. Councilperson Ramsey seconded the motion.

Councilperson Botsch asked if there had been public comment on this amendment. Councilperson Ramsey responded that there had been no public comment, but the Town Attorney had made a presentation regarding the impact of this amendment and how it would change the Zoning Ordinance. He added that the Town Attorney had been fully supportive of this amendment.

The motion to approve the Ordinance Amending Article 19 "Violations and Penalties" of the Round Hill Zoning Ordinance passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

4. Text amendments to Section 5-607 "Child Care" of the Round Hill Zoning Ordinance.

Mayor Heyner advised the Council that this amendment changed "homes to facilities" to be more inclusive and removed exclusion for play areas in certain situations. There were no public comments for this item.

Vice Mayor Graham moved to approve the text amendments to Section 5-607 "Child Care" of the Round Hill Zoning Ordinance as submitted. Councilperson Ramsey seconded the motion.

The motion to approve the text amendments to Section 5-607 "Child Care" of the Round Hill Zoning Ordinance passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

5. Amendments to the Town of Round Hill Water Ordinance.

Vice Mayor Graham moved to adopt the Town of Round Hill Water Ordinance dated September 17, 2009, as presented. Councilperson Prack seconded the motion.

Vice Mayor Graham commented that this item was discussed at the public hearing and the only comments were made by Ms. Wolford. Vice Mayor Graham advised staff that she found a typographical error on Page 8, Article 7, Section 9, "building" was spelled wrong. Mr. Barkley reviewed the changes incorporated by staff: Page 4, Section 3, 2nd sentence "if and when" was changed to "when the Town." Section 9, Article 3, 1st sentence, suggestion to change "building service line" to "water" but it was not changed because "building service line" was defined in Section 10 Definitions, so this was not changed. Councilperson Botsch suggested that a space be placed between Section and 9. Mr. Barkley continued: Page 8, Article 6, Section 4, changes to the sentence. Councilperson Ramsey noted that the prior copy was changed to include language that the deposit would be paid by the owner of the property and that condition has been removed on this copy. Section 11 on Page 9, Section 2 was deleted. Page 9, Section 15, 1st sentence was corrected to read "their" request instead of this request. Councilperson Ramsey noted that the formatting of Section 11 did not match the indentations of the rest of the document. Page 10, Section 5 the last part was changed from "prior" to "other." Mr. Barkley noted that none of the corrections expanded the Ordinance to require another public hearing. Councilperson Botsch offered a correction to Article 10, Section 5 to remove the word "that." Councilperson Heston suggested the indentation of entire section. Vice Mayor Graham agreed, stating that she had discussed the changes with the Town Attorney, who advised her that another public hearing would not be necessary.

Vice Mayor Graham and Councilperson Prack agreed to the above corrections to the Water Ordinance.

Mayor Heyner noted that there were public comments, but most of the comments came from Ms. Wolford, who was pointing out corrections.

The motion to approve the Town of Round Hill Water Ordinance dated September 17, 2009, as corrected passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

6. Amendments to the Town of Round Hill Sewer Ordinance.

Vice Mayor Graham moved to approve the Town of Round Hill Sewer Ordinance dated September 17, 2009, incorporating the changes outlined by Mr. Barkley below. Councilperson Prack seconded the motion.

Vice Mayor Graham noted a typographical error on Page 10, Article 8 the word "proportionate" was misspelled. Mr. Barkley noted another change to Article 8, which was also

changed from "larger users" to "non-single-family homes." Councilperson Heston noted a change on Page 3, Sections 16 and 20 need reformatting to make the headings consistent with the Water Ordinance by expanding the abbreviations of "Sec. to Section." Page 7, Section 4 the Article "H" appears to be an "I". Councilperson Prack responded that it should be a number 1, but the section needed to be tabbed to the right. Councilperson Hummel suggested that Article 9 be made consistent with the Water Ordinance, which reads "Loudoun Water Company." The Council members realized that the Water Ordinance named Loudoun Water incorrectly, and they decided to leave the term as written in the Sewer Ordinance, and correct it with a future amendment. Councilperson Ramsey noted a possible correction to Article 6, Section 2 Protection from Damage. Ms. Wolford stated that the sentence was unclear, "property business establish the safety precautions by which the Town employees abide." Mr. Barkley responded that they had changed "company" to "business." The Council members discussed possible alternative sentences, but then decided to leave the language as written. Councilperson Botsch noted that during the June Town Council public meeting, they had discussed discharging substances into the system such as paint. Vice Mayor Graham referred to Page 6, Article 5, which states, "No person shall discharge..." Mr. Barkley noted that Article 7 allows for prosecution to the full extent of the law for any reason. Mayor Heyner commented that during the public hearing there was a question about Article 4, Section 7: the statement where it refers to the requirements of the Building and Plumbing Code not being specifically defined. Vice Mayor Graham responded that since the County did not have one. Councilperson Ramsey added that the County has adopted the Statewide Building Code. He suggested that the add the term "applicable Building and Plumbing Code," three lines down an additional "applicable" was also needed.

Vice Mayor Graham and Councilperson Prack accepted all changes noted above to the Sewer Ordinance.

The motion to approve the Town of Round Hill Sewer Ordinance dated September 17, 2009, as corrected passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

7. Text amendments to Article 14 "Landscaping and Screening" of the Round Hill Zoning Ordinance.

Councilperson Hummel moved to approve the text amendments to Article 14 "Landscaping and Screening" of the Round Hill Zoning Ordinance. Councilperson Ramsey seconded the motion.

Mayor Heyner noted that there was public comment regarding expansion of the list of tree species that would be allowed. Mr. Kinsley responded that there was a list of approved species, but it was not exclusive. Mayor Heyner asked if Margaret O'Brien had stated that she knew some other species that grew well in the area, although the language would not exclude them. Councilperson Hummel noted that they had worked on the Ordinance for 18 months and he applauded all of the hard work that went into the language. Councilperson Ramsey proposed a change to Section 14.2 to remove "in the R-2 District" because the applicability section gives an exemption to single-family uses in all districts, not just the R-2 district.

Councilpersons Hummel and Ramsey accepted the above corrections.

The motion to approve the Text amendments to Article 14 "Landscaping and Screening" of the Round Hill Zoning Ordinance as corrected passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

8. Text amendments to Section 5.7 "Landscaping" of the Round Hill Subdivision and Land Development Ordinance.

Councilperson Hummel moved to approve the Text amendments to Section 5.7 "Landscaping" of the Round Hill Subdivision and Land Development Ordinance as submitted. Councilperson Botsch seconded the motion.

Mayor Heyner noted that there was no public comment on this amendment. Councilperson Hummel noted that most of the changes involved "wordsmithing," except for Section 5.74, which introduced the concept of bonding separately for landscaping.

The motion to approve the Text amendments to Section 5.7 "Landscaping" of the Round Hill Subdivision and Land Development Ordinance passed by a voice vote of Council present, 6-0-0, the votes being recorded as shown below:

<u>MEMBER:</u>	<u>VOTE:</u>
Dan Botsch	Aye
Mike Hummel	Aye
Janet Heston	Aye
Mary Anne Graham	Aye
Scott Ramsey	Aye
Chris Prack	Aye

IN RE: REPORTS

1. Town Administrator's Report

Written weekly report from September 14, 2009, was included in the Council packets.

Mr. Barkley noted that his report was presented in written form and he entertained questions from the Town Council. He commented that he erroneously had reported that Verizon would be activating their cellular equipment on September 15, 2009, and there was no updated activation schedule for Verizon. Staff had removed this information from the website, and they would post it again when they had updated information. He also noted that the Planning Commission had recommended that the public access easement be reduced on the Gem Ram property, and he did change that.

Councilperson Prack asked about a press release regarding the reduction in credits. Mr. Barkley responded that he felt it was best to go through the process of the regulatory commission first, but to have a release prepared for the proper release. He was not sure what the DEQ timing would be and to what extent the politicians would be willing to extend to the Town. Mayor Heyner suggested that they would not extend any effort unless the Town contacted them. Mr. Barkley added that he was not sure about the context of contacting the politicians: F.Y.I., Help!, Help us get fair market value for the credits that will be taken away from us. Vice Mayor Graham noted that Keith Lane spoke at the Utility Committee and said that the state was prepared to give Merck credits regardless of what happens with the credits. Councilperson Ramsey stated that he thought Keith had indicated that the state would guarantee a price per credit to Merck, so if they needed more credits, Merck could get them at a known value, rather than going out into the market where they might not even exist. Mayor Heyner commented that their concern was that whatever payment would go to DEQ rather than to the Town. The Town is going to suggest that if they were going to take the credits, then the Town should get paid for them rather than paying DEQ. Councilperson Ramsey stated that there was nothing to prevent DEQ from cutting their allocation in half next year or cutting them again the year after that. The Town has no regulatory certainty, and now they have no expectation of regulatory certainty, yet they were committing themselves to large capital projects costing multimillions of dollars in order to meet certain regulatory limits that now appear to be "moving targets." He stated that was his primary complaint that he would like to take to their state representatives; if they are going to give the Town a regulation and require them to make major capital improvements to meet those regulations, then those regulations should be frozen for as long as those capital improvements were made. Councilperson Prack commented that he felt it was a conflict of interest where DEQ was defining the regulations and limits would be and they were also removing credits so they could get more money from an industrial use. Councilperson Ramsey stated that if the Town was obtaining a 20 year bond, he wanted to make sure that project was not going to be "OBE" three years from now or the next time DEQ decided that they did not have a low enough limit and they would have to get all new equipment. Mr. Barkley noted that the idea was that the DEQ would look at the data that Peed and Bortz had helped the Town compile; indicate that flow is one thing and nutrients are another, and there are certain factors that the DEQ was probably not aware of in Town. Councilperson Ramsey noted that they were not vested in the allocations, which are held administratively by DEQ. Mr. Barkley added

that they would potentially be putting the politicians in a "no win" situation if they asked for their support. Councilperson Ramsey responded that he did not want the politicians to vote against Merck, he just wanted them to give the Town a regulation that was not going to change. Then the Town could invest millions of dollars, but with a guaranteed static regulatory environment to protect their investment. He added that he wanted to make their representatives aware of the dynamic and ridiculous environment that DEQ had set up around this issue. They tell Town that they can buy credits, but they won't guarantee a price in the market. If the Town knew that credits would cost \$1,000 per milliliter, then the Town could make a rational decision of either paying the money or buying the credits or paying someone who could upgrade more cheaply. Maybe they could upgrade even more and sell the credits, but the Town would not do that; they would not make a "super clean plant" because they do not know what the credits would be worth. If the Town built a plant that operated efficiently, then the DEQ could come back in three years and take those credits away, even if they had not built the proposed 500 homes yet. Councilperson Ramsey concluded by stating that the Town's incentive was to run the plant as "dirty" as possible, and every other operator in the state would be trying to do the very same thing. Councilperson Prack agreed, stating that the DEQ needed to live up to its name. Councilperson Ramsey stated that they needed an economist to look at the situation and explain why the DEQ was doing everything wrong. Councilperson Botsch stated that they were assuming that DEQ's agenda was to clean up the environment; they were creating a revenue source. Councilperson Ramsey stated that the big problem was the Chesapeake Bay clean up, with the way these regulations were working, the regulations would be counterproductive. Councilperson Prack stated that they make groups such as the "Friends of the Chesapeake Bay" aware of this fact that the Town of Round Hill was being penalized for going "above and beyond." Mayor Heyner stated that these groups were concerned about the totals that were being pumped into their watershed.

Mr. Barkley announced that Loudoun Places (former Loudoun Mainstreet) had met the day before, and he was serving as Chairman of this committee. He added that it would be a good opportunity to get exposure around the County, but also a chance for the Town to have a voice in what this group was interested in doing. He had a mission statement and some policy objectives that he was going to try to sell to this committee, which was a function of the Department of Economic Development. A man named Phil Denino had done a lot of work for towns in the western portion of the County, encouraging business associates and otherwise facilitating dialogues between non-profits, churches, businesses, residents and small business owners. The nice thing about the committee was non-discriminatory like "Virginia Mainstreet" which had strict regulations such as a minimum critical mass. Over the next year, the committee planned to meet with Town Councils and associations to spur development in western Loudoun and other areas. They will also work with schools and website development. He added that he was going to use this group to contact business owners in Round Hill to try to create a business association in the area. They were planning a business summit in the winter, and he would keep the Council posted.

2. Town Planner/Zoning Administrator's Report

The Council members received Mr. Kinsley's September 9, 2009, report in their packets. Mr. Kinsley noted that he had changed the format of his report. Councilperson Ramsey asked if

the Town was going to prepare a design/build package. Mr. Barkley responded that they were in the environmental compliance phase and once that was completed, they could begin to bid out the engineering. Councilperson Ramsey asked if Greenway was under contract for this project. Mr. Barkley responded that they were not; that the Town would bid out the contract to Stantech or Greenway. He asked if the Town was going to post an RFP. Mr. Barkley responded that he had not planned on it; that he would just submit to the preapproved engineers and ask them to submit proposals. Councilperson Ramsey stated that the sooner they could get the proposal in place for design in this fiscal year and award a contract for construction in the next fiscal year. Mr. Barkley responded that they were tied to VDOT's timing on the compliance study before they move forward. The Council members discussed the selection process, concept for the grant application, the necessity for full engineering design. Mr. Barkley explained that VDOT had eliminated the project engineer for the area, so VDOT had agreed that through this phase of the project, all recipients of the grant were welcome to use VDOT for their environmental compliance study, which was not longer the case. Steve Connelroy in Chantilly has about 40 reports on his desk, but he was aware of the Town's situation, and he was moving through the studies. Councilperson Ramsey reiterated that it would take time to go through the public process, if they did not begin soon, they would not be finished by next summer. He suggested that they get started as soon as possible. Mr. Barkley responded that they could have the engineer selected and have them ready to get started as soon as the environmental study was completed. Mayor Heyner commented that they could award the contract, but they could not pay any funds from the grant

3. Mayor's Report

Mayor Heyner noted that during the meeting for the Sheriff's Substation, and he arrived about an hour into the meeting, were regarding design and screening. Citizens present made some screening suggestions, as well as changes to the design. There was a discussion about a phased approach and the size of the facilities such as the lack of need for the community room, since they have the Round Hill Center. The locker-room facilities accommodates 60 or 70 people, which seemed excessive. The representative of the Sheriff's Department commented that the substation would not be just for western Loudoun Deputies, but for all Deputies across the County. The Committee will continue to press on about reduction of the size of the facilities, and possibly the phases. They also made it clear that the participants were concerned about a top notch project, but not necessarily endorsing the design for the project.

4. Utility Operations, Public Facilities and Projects Committee

The Council members received Committee meeting notes from September 11, 2009, in their packets. Vice Mayor Graham noted that Maureen Gilmore, Town Attorney, had attended the meeting and they were pushing forward on the Utility Agreement for Oak Hill, as well as the easements for Hayman Lane. Mr. Wolverton noted that they were maintaining their wells. Mark Nelis attended the meeting and suggested that in return for the electric bills that Stoneleigh paid for the Town, that the Town would forgive the amount of water Stoneleigh lost with the large leak. Mr. Nelis also suggested that Stoneleigh take ownership of Well #11 for the pool, but the Committee was steadfast on its decision not to give up any water source, even if it is not very productive. Councilperson Ramsey stated that originally, the Town was considering asking for

land for a booster station, but that was no longer necessary. Stoneleigh believes that since they paid the electric bill for the Town's pump for eight or nine years, that they would not have to pay the Town for the \$11,000 water bill from the recent leak. Mayor Heyner asked if anyone had "done the math." Vice Mayor Graham responded that Stoneleigh could not even produce copies of the bills, even though they claimed that they had requested copies from Virginia Dominion Power. Councilperson Ramsey commented that Stoneleigh claimed that, based on the bills that they did have, that multiplied over the years, the amount would be close to \$30,000 on the Town's well. He added that Stoneleigh would seek recovery of the power bill money in exchange for the Town forgiving the water bill that they had not paid, along with turning over Well #11. Ms. Gilmore was researching the Town's exposure for this power bill, but the early indications were "that they paid our bill in error, which was very nice of them" but it did not appear that Stoneleigh would have a basis for recovery. They may need to discuss this issue with the Town Attorney in closed session. Councilperson Heston commented that it was the Town's policy to pay the bill and then wait for reimbursement, she asked if Stoneleigh would be paying interest on this past due account. Councilperson Ramsey responded that since they were expecting to negotiate with Stoneleigh for some land, they had not taken a hard line with the bill, but now the land was not an issue and the Town could move forward with collection since the bill was at least a year and a half old. Ms. Wolford responded that the bill was from January of 2008.

5. Administration and Communications Committee

The Council members received Committee meeting notes from September 9, 2009, in their packets. Councilperson Botsch noted that the Committee reviewed the Town's policy about hiring relatives and made several changes. He added that they had a volunteer who had offered to help make changes to the website. Mayor Heyner noted that the volunteer was his nephew Brett.

6. Land Use Committee

The Land Use Committee did not meet this month.

IN RE: COUNCIL COMMENTS

Vice Mayor Graham advised the Council that she would not be attending the meeting on October 15, 2009.

Councilperson Prack referred to the invoice that was included in the packet, and asked for additional information regarding a bill for \$4,350 for well testing required by VDH. Mr. Barkley responded that staff was going to conduct additional research prior to payment of the invoice. He also asked if there was a monthly financial report for the Council to review.

Ms. Wolford apologized for not having e-mailed the report. Mr. Barkley added that there were no surprises, since it was early in the year. They had paid the quarterly amount, and the bottom line totals were around 60%, except for capital improvements.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:57 p.m.

John W. Heyner, Mayor

Patsy J. Tappan, Recorder