

Round Hill Town Council Meeting January 2011

Round Hill Town Council Meeting January 20, 2011 7:30 p.m.

A regular meeting of the Round Hill Town Council was held Thursday, January 20, 2011 at 7:30 p.m. at the Town Office, 23 Main Street, Round Hill, Virginia.

TOWN COUNCIL MEMBERS PRESENT

Scott Ramsey, Mayor
Mary Anne Graham, Vice Mayor
R. Daniel Botsch
Janet Heston
Clarkson Klipple
Jennifer Grafton Theodore

TOWN COUNCIL MEMBERS ABSENT

Christopher Prack

STAFF MEMBERS PRESENT

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

MEMBERS OF THE PUBLIC

Deputy Matt Bressler, Loudoun County Sheriff's Department

IN RE: CALL TO ORDER

Mayor Scott Ramsey called the meeting to order at 7:35 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 reported that there was 41 calls for service, 20 traffic stops and 8 self-initiated incidents, a quiet month.

IN RE: PUBLIC COMMENT

None

IN RE: APPROVAL OF THE AGENDA

Vice Mayor Mary Anne Graham moved that the agenda be approved as presented.

R. Daniel Botsch seconded her motion.

The motion passed, 4-0 with Council members Jenny Grafton Theodore and Christopher Prack absent for the vote.

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IN RE: MAIN STREET ENHANCEMENT PROJECT

John Barkley, Town Administrator said that the Town was still working with Loudoun County on the storm water management issue in respect to two projects – the Main Street enhancement project and the Franklin Park-to-Round Hill trail project. They have not reached resolution with the County on the sharing of the costs for the upsizing of the storm water facilities that is going to be needed but they have enlisted the support of their VDOT Project Manager, Jim Zeller. He is now communicating with Diane Ryburn, PRCS to reiterate the Town's concern that they need to work together on this; that the County needs to share the costs for the Town to upsize the piping along Loudoun Street so that the Town can have proper drainage on the Main Street enhancement project as well. The County has not responded or commissioned Anderson & Associates to do any further storm water work. The County is now working with their land development people to figure out whether they have to amend their easements due to the potential upsizing of the pipe. The Town did put in a Phase 1 A grant funding application December 1st essentially requesting about the same amount of money as requested during the first phase for building retaining walls, having to acquire further land easements, upsizing the storm water facilities, etc. There is about 1 million dollars available this round for Northern Virginia as a whole so the prospects for this funding are not great. The decision will not be known until May. The Town Council will need to decide whether to move forward and not wait for the County to make their decision and also, does the Town want to scale down the Main Street project? Mr. Barkley said he is not optimistic about reaching an agreement with the County to share the costs. He expected that they would have a scaled down rendering of the project to represent what the Town can do utilizing the current funding by February's meeting.

Mayor Ramsey said that they needed to press the County to do a cost estimate on their own of the costs associated with the storm water upgrade and at least get the numbers on the table.

IN RE: WASTEWATER TREATMENT PLANT UPGRADE

Vice Mayor Mary Anne Graham said that they had received their certificate to occupy and East Coast will do the rest of the upgrades and they now have a sludge press which is quite impressive. Once it is in operation they should have a demonstration, perhaps to press grapes first☺. There is an issue of the waste load allocation issue – changing it from poundage to milligrams per liter and it may put the Town in danger of violation of their permit. Nitrogen and phosphorus are under the gun from the DEQ, according to John Barkley and they are not getting any less restrictive. DEQ has known about this for a year, according to John Barkley, it is a good example of a big, cumbersome agency that shows no flexibility whatsoever.

We can buy credits, according to Mayor Ramsey, but we have no idea what the market is going to be, it's not even set up yet, we can't even plan because they can't tell us how much those credits will cost. With the uncertainty and no history as to what the prices will be, we can't make rational decisions. The more your residents conserve water, the higher the concentration will be so it effectively is a disincentive to conserve water or run the plant efficiently. Just by wasting a lot of water we could better meet our regulations.

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John Barkley said that between the Town Engineer's experience with this plus having a Council member who has been doing utilities for years, the conference call with the DEQ should be okay. The sludge that we truck is 70% water. With the sludge press we will eliminate the whole process.

IN RE: WESTERN LOUDOUN SHERIFF SUBSTATION WATER AND SEWER AGREEMENT

John Barkley said Maureen Gilmore will be at the Town Council meeting at 8 pm to give them an update on the agreement as a whole. One of the sticking points is that the County doesn't want to do a fee simple transaction on the well lot, they want to give the Town an easement to access the well lot, because they feel it will impact the construction because it won't meet the setbacks.

Mayor Ramsey said that neither the buildings nor the planned construction would be affected by the setback line. He said that the Town would be willing to work with them on the timing of the lot creation so they could get through their construction before the lot is conveyed.

John Barkley said he has spoken to the County Administrator about that and he and his staff want to meet with the Town. Mayor Ramsey asked to be involved with in the meeting. He said that the location of the well lot appeared to be in a good location from the Town's perspective.

IN RE: DRAFT RESOLUTION REQUESTING LOUDOUN COUNTY TO INCLUDE THE ENTIRE ROUND HILL JLMA AS A SINGLE COUNTY ELECTION DISTRICT

Mayor Ramsey said that the County is going through a redistricting process in response to the new census and are trying to decide how to redraw the lines to keep the election districts equally sized. A lot of draft maps have been displayed on the County website and are preliminary only. There is so far not a lot of satisfaction from any of the Supervisors and more redrawing will be done before they are finalized. So far Mayor Ramsey said he has noted that a large proportion of them have the boundary going down 719 until it hits Town limits and then wrapping around the Town. The Town proper, and Fallswood, Stoneleigh, developments, etc. would all be in Jim Burton's District. East of Town would be in a different district – Catoctin. If the Town Council wants to address this as an action item, Mayor Ramsey said, he would be willing to entertain that idea. Vice Mayor Graham suggested two changes to the wording of the Resolution, striking the words "the two" in the second paragraph and the "by" in the final paragraph and said that with those changes, she was willing to vote on it as a Resolution tonight.

Councilperson Heston asked about the redistricting process and whether the Town wanted to submit their own proposal. Mayor Ramsey said that even though he liked to play with numbers, most of the challenging issues in redistricting lay to the East of the Town.

Councilperson Botsch said they should stick to dealing with the Round Hill area. Mayor Ramsey said they can pass the resolution the way it is and then communicate separately to the BOS which proposal they prefer. Councilmember Klipple said that we definitely want the whole JMLA to stay with one Supervisor but questioned whether it would be an issue for the Town if the entire Western Loudoun area had one or two

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different Supervisors. Mayor Ramsey said that he “would be disappointed to see the Round Hill area split and that the Town often shared common causes with the other Western Loudoun Towns such as Purcellville and Hamilton but if they were in a separate district that would give us the opportunity to have two Supervisors who were aligned to the interests of Western Towns. We currently have that now to some extent.”

Vice Mayor Mary Anne Graham moved that the Town Council adopt Resolution 2011-01 (with the two changes) supporting the inclusion of the entire Town Boundary and Round Hill Joint Land Management Area in any future Loudoun County redistricting.

Councilperson Botsch seconded her motion. The motion passed 5-0 with Council member Prack absent for the vote.

IN RE: FY2012 BUDGET REVIEW SCHEDULE

Town Administrator John Barkley said they tried to tailor the schedule to regular Town Council meeting dates as best they could; the goal was to bring an overview of the budget along with the General Fund at the February Town Council meeting, followed by another General Fund meeting, two Utility Fund meetings in March and April and then on April 21st a final review by the Town Council. The Town would advertise in May and would ultimately present the budget and tax rates prepared for the Town Council to consider adoption at the June 16th Town Council meeting. The FY2012 budget starts July 1, 2011. Council member Janet Heston suggested that the additional two meetings March 3rd and April 7th, start at an earlier time – 7 p.m. Mayor Ramsey said that the two things they usually ended up discussing early on were getting the staff a property tax target rate so they can use it as a basis for putting together the budget, and raises – how much the pool would be, how they would be distributed, etc. because labor costs constituted a majority of the Town’s budget.

Mayor Ramsey asked if an equalization hearing was necessary as well.

John Barkley said he would have to speak with the Town Attorney as it depended what they (the Town Council) would do. He said they are required to have a public hearing on the budget and the tax rates. Mayor Ramsey noted that it also was important to have a supermajority of council members in attendance at the budget vote.

Maureen Gilmore, Town Attorney, arrived at 8:35 p.m.

Mayor Ramsey asked Ms. Gilmore if they were required to have an equalization hearing if they were to adopt a rate below the equalized rate. She replied, “No. Many jurisdictions do because many people just love to read it but as long as you don’t end up with 101% in revenues based on the assessments, then you don’t have to have a public hearing.”

Mayor Ramsey noted that he would also like to have time to hold two meetings, if necessary, following the public hearings before the end of the fiscal year to discuss and adopt the new budget and rates.

IN RE: WESTERN LOUDOUN SHERIFFS SUBSTATION

Ms Gilmore said she did receive an email from John Carlton and he would like to schedule a meeting with John, her, and County Administrator Lou Rausch and will do so sometime during the week of the 24th. She suggested Mayor Ramsey attend as well.

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Mayor Ramsey clarified that the creation of a fee simple lot would be a boundary line adjustment and also that there was the larger issue of the Town jurisdiction BLA which would not necessarily be a condition or precondition to the water and sewer agreement Ms. Gilmore expressed that, "While there is an awareness on the part of the County that the Town would not be opposed to bringing the property within its corporate limits, that would be considered a legislative decision by both the Town and the County and you cannot have a legislative decision, a predetermined legislative decision. That is predetermining not only a legislative decision on the part of two bodies, the County and Town but it also, you may recall...or some of you may not know...that when you have a cooperative boundary line adjustment you still have to file the petition in the Circuit Court of Loudoun County and then there is a 30 day time period within which a party that has an interest can come and object to that so merely having your public hearings on the proposed boundary line by both jurisdictions and filing the resolution does not necessarily complete the process because affected parties have the right to come in and object to the boundary line or change between the County and the Town."

Ms. Gilmore continued, "It is confusing because we were also talking about them doing the fee simple lot for the well, which is also going to require them to do a BLA."

Town Planner and Zoning Administrator Rob Kinsley asked, "Wouldn't that simply be an administrative action or a waiver?"

Ms. Gilmore replied, "Yes."

Mayor Ramsey noted that, "What we have discussed as part of our water sewer agreement is that we might bind them to do that BLA where we can't bind either party to the larger BLA. "

"How I structured the most recent version is that it becomes more of a timing issue," Ms. Gilmore said.

IN RE: TOWN WATER ORDINANCE AMENDMENT

Vice Mayor Mary Anne Graham said, "The utilities committee proposed making a change to Article III to address the use of fire suppression sprinkler systems installed by homeowners or commercial/industrial buildings stating that availability fees may be waived if the connection is made from an existing tap."

Town Attorney Ms. Gilmore said that because they (the Town) were not actually setting rates or imposing fees that the Town must advertise the change twice – the second ad could not be less than 5 days before a meeting - but did not necessarily need to hold a public hearing. The only problem, Ms. Gilmore said, about waiving a fee for a new tap, "You do not want to go crosswise with your loan documents that say you have got to charge a fee for every tap. So, it may be a different amount, depending on the consent decree, but...because you are increasing the capacity, that is why you have to charge him an availability fee," Ms. Gilmore continued, "The other way you could handle it, and I hate to make it more complicated, is you could create a separate classification for fire suppression sprinkler systems."

Mayor Ramsey, "Within our fee schedule."

Ms. Gilmore, "State code allows you to classify it according to usage, fixtures, type of property, etc."

"So we could do separate fees for residential versus commercial," Mayor Ramsey asked.

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Ms. Gilmore, “Yes. There are jurisdictions who calculate their availability fees based on the size of the lot and so a commercial property usually uses more...so you would be creating a specific classification just for fire suppression systems, where you would either have a nominal fee or waive it but otherwise I believe in your loan documents, in the financing agreement that you agreed to with all your loans, you must charge an availability fee for every user of the system.”

Town Administrator John Barkley, “Let me ask you this. Just to play devil’s advocate. That property has already been subject to an availability fee, he has already paid one, can we get around that covenant in that respect? Because theoretically, the use of the water for the sprinkler system is so negligible that he has essentially paid availability for that property already, for the service, for the capacity. This isn’t going to disrupt that.”

Town Attorney Maureen Gilmore, “Capacity is the demand; the amount of water that you are going to use – not just the service. It is to pay for the amount of water the Town is committing to provide for that customer. You are committing in advance to having that water available when it is needed. You can’t say “oh well, only when a fire...” For practical purposes, that is when those sprinklers will go off, but the fact that it demands more capacity, puts more of a strain on your system, it costs you more to have that water ready and available – that’s the way it is supposed to work. 365 days a year, you are supposed to have that water ready.”

Mayor Ramsey, “I think, Maureen, you are on the right track – if we define a different availability class, put that out in our fee schedule, and advertise our fee schedule, then we can set that rate at something nominal or cost recovery on the part of the Town and still be in accordance with our documentation.”

Ms. Gilmore, “I think that is the cleanest way to do it... Under your system right now I think if you need bigger capacity you are going to be paying an upgrade.”

Vice Mayor Mary Anne Graham, Chair of the Utility Committee, requested that the Town staff look into the language in their ordinances of other Western Loudoun towns and how they handled their unmetered connections.

John Barkley, Town Administrator, also said they had asked the Fire Chief if the locks that the Town had purchased and had in stock for the fire hydrants were allowable under their policy but had not heard back from Chief Brower. Vice Mayor Graham had indicated that perhaps we should think about buying a new series of locks if the ones we have do not meet their requirements.

Vice Mayor Graham said that it had been suggested that if the Town puts locks on unattended fire hydrants to prevent water theft without County’s permission that we would be subject to fines or something like that.

Ms. Gilmore noted, “There is no statutory reason why you can’t put on locks. The uniform fire prevention code does not address that particular issue. I am not aware of anything that would impose a penalty on the town. The County is not the boss of the Town.

Mayor Ramsey added, “The water is still available, we would have given them keys. It is not an issue of their access to it, it is an issue of control over who gets to decide what lock gets placed on our hydrant.”

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IN RE: APPROVAL OF MINUTES NOVEMBER 18, 2010 TOWN COUNCIL MEETING

Council member Botsch noted that the date on page 13 should read **November** 18, 2010. **Vice Mayor Mary Anne Graham moved to approve the minutes as amended. Council member Clarkson Klipple seconded her motion. The motion passed 5-0** with Council member Prack absent for the vote.

IN RE: TOWN PARK MASTER PLAN

Council Member Botsch moved to approve the plan. Vice Mayor Mary Anne Graham seconded his motion. The motion passed 5-0 with Council member Christopher Prack absent for the vote.

IN RE: RESOLUTION 2011-02 INTENT TO AMEND ARTICLE 16

The resolution dealt with the amendment of Article 16 to align the time limits for action on special exception applications by the Planning Commission and Town Council to correspond with the Code of Virginia, 1950.

Council member Botsch moved to approve the Resolution. Councilmember Clarkson Klipple seconded the motion. The motion passed 5-0 with Council member Christopher Prack absent for the vote.

IN RE: RESOLUTION 2011-03 TOWN COUNCIL MEETING/INCLEMENT WEATHER POLICY

Vice Mayor Mary Anne Graham moved to adopt the Resolution. Council member Heston seconded her motion. The motion passed 5-0 with Council member Christopher Prack absent for the vote.

IN RE: TOWN ADMINISTRATORS REPORT

Town Administrator John Barkley noted that the staff had been pushing on the Utility side to get the wastewater plant BNR upgrade completed and obtain the CTO and thanked the staff for their competence.

Mayor Ramsey asked where the Town stood as far as well 27A.

Mr. Barkley said that, "RHI engineer's have submitted a permit to discharge well 27A located on the nature preserve (now owned by the Town.) That property has been conveyed from the HOA to the Town. Westlake is also bringing their subdivision application back on active status and designing a water treatment plant. This water treatment plant has an air stripper tower attached to it in their schematic because apparently there are MTB issues with respect to well 27A's groundwater petroleum issues. We now have the Virginia Department of Health and DEQ monitoring the situation to determine if and have not signed the permit – the permit is for testing of this particular well to see if it meets the threshold requirements regulated by the Virginia Department of Health. Our engineer is reviewing the schematic design of the water treatment plant that will serve Westlake. As if that isn't complicated enough right now the developers of the Lakeridge subdivision which is in the Town limits would like to start to develop their subdivision, and they have proposed to use grinder pumps because they expect that the Westlake lift station which was designed to serve both the residents

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of Westlake and the residences of Lake Ridge will not be ready in time in their estimation. So the Town is looking at that issue as well – whether we should amend our ordinance or whether the Planning Commission should allow in the site plan review phase of Lake Ridge for a grinder pump system to pump their sewage back into the Town’s sewer collection system. So the two issues are running parallel at the moment.”

Mayor Ramsey noted that neither the Town nor RHI had easements leading all the way up to the well to provide access.

Vice Mayor Mary Anne Graham asked if the Town would do a “quick take” on the properties along Hayman Lane to which the Town had not yet received signed easements for. Mr. Barkley responded that he believed the term “quick take was a misnomer.” Town Attorney Maureen Gilmore explained in detail the arduous process, “If you were to take these easements by eminent domain, first you would have to have the easements that you want to take appraised, then you would have to send an offer letter to the property owner with a copy of the appraisal and a copy of a title report and the offer. You allow the property owner a certain amount of time to respond. If they reject your offer, then you schedule a public hearing which is required before any type of eminent domain. You have the public hearing and then you need to adopt a resolution that would allow the use of the quick take under the state code. You notify the property owner of that decision and then you go down to the courthouse with a check in the amount of what your offer was and you file that in the land records with a certificate of take. At that time you have indefeasible title to that property so you can go on the property then and start working. The property owner has the right to go into court and ask that the court enter an order releasing the funds that were deposited to him/her as the owner. A condemnation trial is usually set to determine the value of the property unless the owner says the amount you gave is sufficient and then you actually go through getting a recorded easement or fee simple.”

Ms. Gilmore continued, “I can’t give you a recommendation except on a case-by-case basis. If you want to move by a certain time and establish a deadline where these volunteer easements must be done by a certain date as a Council then it does involve some expense for title searches, etc. and then certainly if you want to do a “quick take” it could easily end up costing you more than you would have if people would voluntarily give you these easements.”

Mayor Ramsey noted that in these cases, all the property owners were benefitting from the improvements that the Town was creating; they were getting access to water and sewer service.

Town Administrator John Barkley said that his goal was to have right of entry letters signed by the February Utility Committee meeting.

Reverting back to the discussion regarding RHI, Mayor Ramsey noted that RHI had a scheme where each well gives you so many taps and if they don’t provide the well, they don’t get those taps and this is part of that – as far as the consent decree is concerned, as long as they meet the requirements of the consent decree by making the well available and we deny it or decide not to hook it up for our reasons then they can argue that they are still entitled to the taps. They will not deliver one that doesn’t meet DH standards and they intend to meet those standards by using an air stripper. RHI was required to make

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something that was accepted by DEQ into our system and then the continued maintenance and operation after that was the Town's responsibility.

John Barkley said that the actual contaminants are not released in liquid or sewer forms but are diffused into the air. There is a maintenance issue with respect to the treatment plant itself – that it has to be acid washed or something similar, so that will have to be built into the capital planning and operational maintenance budget. If it meets VDH standards, the Town does not have any choice but to accept both the wells and the plan unless it violates the consent decree. “There is a process that is pretty well delineated in the consent decree – design, review and approval by the Town of the actual Westlake water treatment plant, which is part of the reason that we backed away from the shared construction agreement for utilities.”

IN RE: TOWN PLANNERS REPORT

Rob Kinsley reported that of the three documents that needed to be recorded prior to the Bank of Clarke County receiving site plan approval by the Planning Commission, 2 are ready. The BLA releasing the deed of trust for the lot consolidation is being reworked to meet lender requirements.

It was noted that a provision exists in the Town charter that the Town shall use a local bank.

The Sheriff substation renewal lease will be due in March – there has not been any proposal made yet.

IN RE: MAYOR'S REPORT

Mayor Ramsey said he will follow up on the Franklin Park trail issues with the County.

IN RE: UTILITY COMMITTEE MEETING

The next meeting will be Tuesday February 8

IN RE: ADMINISTRATIVE COMMITTEE MEETING

The Administrative Committee did not meet. They will meet Wednesday, February 16.

IN RE: LAND USE COMMITTEE MEETING

The Land Use Committee meeting was cancelled and rescheduled for Wednesday morning, February 16th.

It was noted that there are 2 openings currently to be filled on the Planning Commission as Craig Frederick's term expired at the end of last year.

IN RE: ADJOURNMENT

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

Respectfully submitted,

Scott Ramsey, Mayor

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Susanne Kahler, Recording Secretary