

**ROUND HILL TOWN COUNCIL MEETING**  
**Thursday, June 17, 2010 7:30 p.m.**

A regular meeting of the Round Hill Town Council was held on Thursday, June 17, 2010 at 7:30 p.m. at the Town Office, 23 Main Street, Round Hill, Virginia.

**TOWN COUNCIL MEMBERS PRESENT**

John Heyner, Mayor  
Mary Anne Graham, Vice Mayor  
Janet Heston  
R. Daniel Botsch  
Michael Hummel  
Scott Ramsey  
Christopher Prack

**STAFF MEMBERS PRESENT**

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

**PLANNING COMMISSION MEMBERS PRESENT**

Sarah Etro, Chairperson  
Kathi Luckard, Vice Chair  
Betty Wolford

**MEMBERS OF THE PUBLIC**

Franklin Bell, Bluemont

**IN RE: CALL TO ORDER**

Mayor Heyner called the meeting to order at 7:39 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**

There was none

**IN RE: PUBLIC COMMENT**

The Planning Commission took this opportunity to publicly recognize Planning Commission and Town Council member Michael Hummel's outstanding service and contributions to the Town as this was his last meeting of his term.

Franklin Bell, a resident of Bluemont spoke on a matter of "existential importance." He presented a resolution sponsored by the LaRouche Political Action Committee calling for Congress to restore the Glass-Steagall amendment in the financial reform bill. The Town

Council took the matter into consideration for possible action at the next regularly scheduled Town Council meeting.

**IN RE: APPROVAL OF AGENDA**

Vice Mayor Mary Anne Graham moved that the agenda be approved as presented. Councilperson Prack seconded her motion. Mayor Heyner asked to remove item #5/Action Items – the lease agreement under consideration with T-Mobile – as the Town Attorney was unable to be present at tonight’s meeting.

Vice Mayor Graham and Councilperson Prack agreed to the suggested change. Councilperson Botsch requested that they add to the agenda as Action item #7 a discussion of the Town’s Compensation Time Policy. The Council members agreed to the changes and **the motion passed 6-0-0.**

**IN RE: WESTERN LOUDOUN SHERIFF SUBSTATION**

Town Administrator John Barkley reported that he had a letter prepared and ready for distribution to Loudoun County elected officials and staff members which summarized the Town’s position as identified in last month’s Town Council meeting.

Councilmember Ramsey edited the letter. Mayor Heyner noted that the Town has not yet received the Utility agreement back.

Councilperson Botsch asked that they change the wording of the final paragraph ...”to see that the other concerns are met and to see a final result.”

**IN RE: DRAFT PARK MASTER PLAN**

Rob Kinsley, Town Planner and Zoning Administrator, presented the Council with a Draft Park Master Plan compiled by the Town Planning Commission members as tasked by a resolution of the Town Council. The Commission members were to come up with a policy for requests for special uses of the Park and to deal with memorials and other donations. The plan presented relied heavily on the original concept development plan when the park was first designed several years ago, according to Mr. Kinsley. It was noted, however, that the Town Christmas tree is now planted where the Pavilion was originally designated to be placed. It was also suggested that a Park management committee or commission be formed with the Mayor nominating work group leaders for each season as well as one overall coordinator to handle routine maintenance, budgeted for by the Town under utilities.

The Town Council members expressed a desire for more explicit guidelines in the Draft Master Plan. Vice Mayor Graham requested that they find out how many benches had not yet been sponsored by donations. Councilperson Heston asked for a detailed landscape design plan so that future sponsors could add plants or trees as designated memorial donations. Councilperson Ramsey suggested that the Plan be referred to the Land Use Committee for further review. Rob Kinsley agreed to add the item to the agenda for the next Land Use Committee meeting.

**IN RE: TOWN COUNCIL AND PLANNING COMMISSION VACANCIES**

As of July 1<sup>st</sup>, there will be a vacancy on the Planning Commission as Commissioner Luckard resigned her seat effective June 30, 2010. With Councilmember Ramsey being elected as Mayor, there is also an open slot on the Town Council. It was noted that with

Michael Hummel's term also ending, there was no longer a liaison from the Town Council on the Planning Commission. Mayor Heyner said that if there was enough interest to bump the Planning Commission member to 7 positions they should. Several Council members said they had heard from interested parties. It was agreed to advertise the vacancies on the Town website and sign as well as send a press release to local newspapers. Interested residents were urged to send a letter of interest by the next regularly scheduled Town Council meeting of July 22, 2010 as the deadline.

**IN RE: APPROVAL OF MINUTES May 20, 2010 Town Council meeting**

Councilperson Ramsey moved that the minutes of May 20, 2010 be approved. Vice Mayor Mary Anne Graham seconded his motion. It was noted that Bill Thistle of PSA-Dewberry should read "Fissell" as a last name, on page 6, it should read resident Bill Heston. On page 4, Councilperson Botsch wanted to add in the 2<sup>nd</sup> paragraph for clarity "...whether to actually remove the lighting fixtures that were in violation of the original special exception plan..."

On page 10, second paragraph, it should read Councilperson Prack said, "I would..." and in the final paragraph, "The conclusion that I AM..." throughout to change the tense to a quote in the first person.

Councilperson Ramsey and Vice Mayor Graham accepted the changes noted. **The motion passed, 6-0-0.**

**IN RE: APPROVAL OF MINUTES June 3, 2010 Public Hearings – FY2011 Budget/FY2011 Tax Rates and Fees.**

Councilperson Heston moved that the minutes be approved as presented. Councilperson Botsch seconded her motion. **The motion passed 4-0-2** with Councilperson Hummel and Vice Mayor Graham abstaining as they were not present at the meeting.

**IN RE: FY 2011 BUDGET AND TAX RATES**

John Barkley, Town Administrator, reviewed the FY 2011 Budget and tax rates, which includes a 2 cent increase from 20 cents per \$100 of assessed valuation to 22 cents per \$100 of assessed valuation. User fees will increase by 3%. Availability fees will increase by 6%/ These did not increase in FY10 and the increase will put the town on par with the 2005 rate study. Mr. Barkley stated that separate public hearings were held for both the Budget and FY2011 Tax Rates and Fees and the Town complied with all State requirements in terms of public notice and the budget was presented to the Town Council for approval.

Vice Mayor Graham questioned were any monies included for overtime, which Treasurer Worford assured her was not included. Councilperson Ramsey questioned the Comp time consideration. Councilperson Botsch asked Mr. Barkley whether the Town Attorney, Maureen Gilmore, had determined the legality of the clause to be included in the Town's Compensation policy,. The clause acknowledged that comp time would be given in lieu of overtime and would be a provision for all new employees to sign.

Treasurer Worford noted in the Utility operating budget, line item 53, for part-time help next May and June, and suggested they reduce that figure by 2-3K and put in a transfer to CD to operating reserves. The Town Council agreed to leave 2K under this item and put the balance in operating reserves.

Councilperson Ramsey questioned the Council on whether they should stick to the advertised 22 cent increase in tax rates or drop down to 21 cents per \$100 of assessed valuation. Mayor Heyner, Vice Mayor Graham and Councilmembers Botsch, Heston and Hummel expressed their favor in keeping the rate at 22 cents.

Councilperson Ramsey moved that the Town Council approve the proposed budget for FY2010/2011 as amended by this discussion. Vice Mayor Graham seconded the motion. **The motion passed unanimously 6-0-0.**

#### **IN RE: RESOLUTION 2010-03: FY2011 AUTHORIZING APPROPRIATION AND EXPENDITURE FOR RELEASE OF FY2011 FUNDS.**

Vice Mayor Graham so moved to pass the resolution. Councilperson Ramsey seconded. The motion passed unanimously 6-0-0.

John Barkley, Town Administrator, asked at this time if Councilperson Ramsey would revisit his motion on the budget and add tax rates and fees to his motion

Councilperson Ramsey moved that the Town adopt the rates and fees schedule as advertised in a separate motion. Councilperson Botsch seconded the motion. **The motion passed unanimously 6-0-0.**

#### **IN RE: RESOLUTION 2010-04 AUTHORIZATION TO PICK-UP THE EMPLOYEE'S CONTRIBUTION TO VRS UNDER SECTION 414(H) OF THE INTERNAL REVENUE CODE FOR PLAN 2 EMPLOYEES**

Town Administrator Mr. John Barkley stated that this was a routine matter but now there were some other options based on the General Assembly legislation. The Town Council must pass the resolution to cover its 5 % contribution on behalf of its employees to the Virginia Retirement System. This is a resolution voted on annually by the Town Council. State employees must now make their own 5% contribution effective July 1<sup>st</sup>. Local participants are not obligated to mandate the employee contribution of 5 %. The State is no longer picking up the contribution.

Councilperson Prack moved that the Town be authorized to make the VRS Employee contribution. Councilperson Heston seconded his motion. **The motion passed unanimously 6-0-0.**

#### **IN RE: CONTRACT AWARD FOR AUTOMATIC PAYMENTS**

Councilperson Botsch asked John Barkley to address the issue. Mr. Barkley said that he and the Town Treasurer, Betty Wolford, interviewed 4 different entities to provide the Town with proposals to offer automated payment options for utility and tax bills. A spreadsheet was given for comparison of upfront fees and other charges. The end result of the review process was a recommendation on behalf of PAYMENTUS, a company which in both the Town Administrator's and Treasurer's view, provided the best value in terms of a third party billing service. The percentage charged by Paymentus for each type of bill was preferable to the others with no exorbitant upfront charges to get the program up and running. According to Mr. Barkley, Paymentus had good references, conference call with web demonstration. There was clean security and encryption of data. The service did not take a lot of data entry and work off of the staff but it was more of a Town

Council gesture - an option as a convenience to the customer. The issue now confronting the Town Council according to Town Administrator Mr. Barkley was, "Does the Town Council want to absorb the fee that the average customer would pay. Are our citizens interested in paying a fee with a third party to pay their bills to the town?"

Councilperson Botsch said that a survey had been sent out previously to customers with their utility bills asking them and out of 1200 customers, 200 responded, 75 percent said yes and were willing to use a third party service for convenience but the fee at the time of the survey was unspecified.

Councilperson Ramsey asked if servicing accounts would be easier for Town staff with Paymentus but to add electronic billing required additional fees. The service offered by Paymentus would not be integrated with billing system in any way. They would only have payment history of customer but the customer still needed to have the bill in front of them when they signed in online to pay their bill. Town Administrator Barkley did point out that having the service available might help avoid service cut-offs.

"The worst case scenario," according to councilperson Botsch, "was if all 1200 utility accounts decided to use Paymentus, the cost would be an additional \$15 per year average per customer." Botsch said he was worried that since customers were usually already upset about their utility bill expenses, once customers found out there was a fee involved, they might be pouring salt in the wound.

Councilperson Ramsey said that he felt having the electronic option would improve their response rate on billing.

Vice Mayor Graham pointed out that Paymentus required a 2 year contract and she felt that she shouldn't have to pay for the service if she didn't use it.

Mayor Heyner said there were a million things she paid for every day but didn't use.

Councilperson Heston also pointed out that Paymentus may change its rates at some point in the future

Councilperson Ramsey said, "That if 200 people used the Paymentus system at a cost of \$3000 a year – the Town has a 1.4 mil operating budget, the impact of this fee was miniscule compared to hundreds of other decisions that they make every day about the utility system. They spent much more time arguing about this cost than they did the \$50K the Town just voted to contribute to the VRS Retirement System."

Town Administrator Mr. Barkley made the point that if the Town absorbs the fee to start with, and it becomes a very effective program with users, at some point it will become very expensive and the Town will have to reverse itself and charge the customers the usage fee. Then it becomes a political issue.

Mayor Heyner said that if all customers decide to use it, then you just build the fee into the bill.

Councilperson Ramsey said that, "If only a few people used the system then there would be very few payments they would be making to this company and it would be a negligible amount of money. If lots of people use this system, then yes, we are paying lots of money to this company but everybody like it and they are getting the benefit from it. It is really only the middle where some of the people are using it and some of the people aren't that there is any argument about subsidizing it."

Mayor Heyner asked if there would be action on this item tonight.

Councilperson Botsch asked that whatever motion be made include a verification that there was no minimum number of participants needed to use the system.

Councilperson Ramsey moved that if there is no minimum number of participant charges, that the Town sign a contract with Paymentus with the charges to be absorbed by the Town.

Councilperson Botsch seconded the motion.

Councilperson Heston asked whether it was included in the budget for FY2011.

Mayor Heyner said they couldn't put it in the budget because they had no idea how many people would use it. They could always move money to a line item.

Councilperson Botsch said that the people who are furious with the system, furious with what they are already paying, I can't see charging them \$8.25 to make a payment.

Councilperson Prack said, "I would agree with you there completely if we were requiring them to pay electronically. This is solely at their discretion. It is not like it is a surprise in the end."

Councilperson Botsch said what they can also say is, "You guys finally come out of the stone age you give me the ability to pay it and I have to pay a fee that is 4-5 times what I thought I would have to pay."

Councilperson Heston said, "I just think it is optional, we should let them pay the fees."

Treasurer Welford said a typical out of town bill was 300-500 dollars.

Councilperson Ramsey said there was a second part to this argument and that was that this service will improve payment rates. "The easier it you made it for the customer to pay you money, the more likely it was that you would get that money. I think people aren't planning to scheme out the Town, I think people just forget."

Treasurer Welford said that online payment would help with customers facing service cut offs... it will allow the Town staff to go online and check their payment status and keep the utility staff from having to cut off service to 20 homes only to go out a few hours later and turn 18 of them back on.

Councilperson Hummel asked Councilperson Ramsey to restate the motion.

Councilperson Ramsey said the motion is "to hire, or sign a contract, with Paymentus and to do it with the charges absorbed by the Town but only if there is no minimum number required participants in the program. If there is a minimum, we take this up next meeting."

Vice Mayor Graham said, "Call the question."

**The motion passed 4-2-0** with Councilmember Heston and Vice Mayor Graham voting nay.

Councilperson Ramsey asked if the Town was still investigating online billing but Treasurer Welford said the Town had stopped looking into it because of the expense involved.

#### **IN RE: APPROVAL OF FIRE HYDRANTS**

According to Vice Mayor Mary Anne Graham, the utilities staff would like to use a different manufacturer of fire hydrants, which must be added to the Facilities Standards Manual (FSM) of Clow Hydrants and asked that this recommendation be added to the Town's standard list of hydrants.

Vice Mayor Graham said if no action was needed by the Council to just consider this as an information item.

## **IN RE: OVERTIME AND COMPENSATORY LEAVE POLICY**

Councilperson Botsch said that this item came up during recent budget discussions - the Town needed a policy in their manual to support or enable the Town Administrator to force employees to take comp time in lieu of overtime. He continued that, "We have had the Town Attorney, Maureen Gilmore, review this and we were going to go back to her this week to have her review just an item in paragraph one which is can we say that it is all hours exceeding 80 hours over a bi-week period – which is our pay period - or do we have to say by 40 hour week."

Town Administrator Mr. Barkley said that it is his understanding that they can frame it as an 80 hour week and still justify it as a 40 hr work week and use it as the basis for their comp time rules, but they can verify it with Maureen when she returns.

Councilperson Botsch said the second issue is whether they have the ability to force employees to take comp time rather than overtime. Mayor Heyner said, "They still aren't forcing them because they don't have to sign it but you can ask someone to sign something and if they sign it, they have agreed to do it and that is fine but I don't think we can use it as a reason NOT to hire them."

"Couldn't we make it as a condition of employment for new employees?" Councilperson Botsch asked.

"I don't think so. If they refuse to sign it and we don't give them the job, if that goes to court, I am pretty confident that we would lose," said Mayor Heyner.

Councilperson Prack said, "I don't think it will get that far if we just state it as a matter of fact in an interview that we don't pay overtime, that you are given time off instead of compensation."

Councilperson Ramsey said, "If we have questions about labor law then we still aren't ready to approve this thing."

According to Treasurer Wolford, you actually had to have been ON THE JOB, working for 40 hours to be eligible for time and a half.

Councilperson Ramsey asked why the Facilities Supervisor was not exempted from this policy.

Town Administrator John Barkley said, "It was by the nature of the work that they could use to justify classifying him as a non-exempt employee. You have to be prepared for the salary side as well."

Councilperson Ramsey said, "One of my concerns is that this comp time policy will want to make me suggest to the Town Administrator and the Utilities Supervisor that they do everything in their power to avoid letting any employee do more than 40 hours of work per week because this is ripe for abuse."

Town Administrator Barkley said, "Yes, there is a management side to this. It is about controlling the situation, not just the law."

Councilperson Ramsey said, "Here there is an incentive for someone to try to work extra hours because every hour you work past 40 is an hour and a half that you don't have to work next week."

Mayor Heyner asked, "What happened if an employee built up comp time and did not use it and left – did they have to pay them time and a half? In that case the Town could take a major hit. "

Councilperson Ramsey said, "If we have a policy like this, Alan(Wolverton) and John (Barkley) need to be far more aggressive about saying no you cannot work unless you

convince me that this is an absolute emergency and as soon as you have it abated you leave and we handle it the next morning on regular shift.”

Councilperson Botsch said any comp time has to be approved by the Town Administrator. Mayor Heyner said what really needed to be approved is the employees working the extra hours.

Councilperson Ramsey said, “the Town Administrator now approves the comp time after the fact. Once it is worked, it is due you. What we really need is preapproval.”

Councilperson Botsch said, “We need to put something in here for emergency situations then. We did talk about Alan as an exempt employee but the problem is we haven’t treated him as an exempt employee in the past. If we are doing that, we are cutting his compensation unless we make up for it in some other way.”

Councilperson Botsch continued, “I think the solution to that is that I don’t think that you can have a policy that can take these kind of things into account or prevent them from happening. I think the solution to that is if we have a manager that is allowing this kind of abuse that we replace the manager.”

Mayor Heyner suggested that the discussion be tabled as they had already decided that they were not voting on this tonight.

Councilperson Heston asked that the Council members get a list of what was accrued for each employee for the last 12 months, not the balance but the actual accrual for the year.

Councilperson Ramsey suggested that if it was a sensitive personnel issue, the data could be anonymous.

#### **IN RE: TOWN ADMINISTRATOR’S REPORT**

Mr. Barkley announced that on June 23<sup>rd</sup> there was a Town Council summit organized by the Loudoun Places Committee from 7-9 pm at the Carver Center. A consultant was coming to speak on economic development/sustainability and how to develop their main streets.

June 29<sup>th</sup> at 7:30 p.m. is the swearing-in ceremony for the new Mayor and Town Council members with Gary Clemens, Court Clerk attending.

June 24<sup>th</sup> at 7:30 is the public hearing scheduled for the Holtzman Special Exception permit.

Brothers Paving made a proposal in response to the Town’s RFP. 28K can take care of everything the Town identified for sidewalk replacement. 20K is designated in the budget for FY2010. 8K will be left for the new fiscal year’s budget, hopefully split into 2 different contracts for signature.

Councilperson Heston questioned the permit status for the Town welcome signs.

Mr. Barkley said they had been plotted on GIS format and were going to VDOT for final approval. He added that the eastern gateway sign should be done in another week or so – installation first and then clearing around the sign.

#### **IN RE: TOWN PLANNER AND ZONING ADMINISTRATOR’S REPORT**

Mr. Kinsley reminded the Council of the impending Public Hearing on June 24th

**IN RE: MAYOR'S REPORT**

Mayor Heyner said it was a pleasure to have worked with the Town Council during his tenure as Mayor.

**IN RE: UTILITY OPERATIONS REPORT**

Vice Mayor Graham said they met by telephone - the BNR project is on track. Equipment is on order. They are confident CTO will be done by the end of the year.

The old house down there was broken into, paneling pulled off the front door. Nothing was removed but there was vandalism and the staff replaced the board on the door.

**IN RE: ADMINISTRATIVE COMMITTEE**

Botsch said they are also creating an internet usage policy for Town employees.

Councilperson Hummel asked if they were aware of the pornography received on the Town Planning Commissioner's email.

**IN RE: LAND USE COMMITTEE**

Councilperson Hummel made an executive decision to cancel the last month's meeting as there was nothing on the agenda.

**IN RE: SPECIAL RECOGNITION**

Vice Mayor Mary Anne Graham presented plaques to Mayor Heyner and Town Council member Michael Hummel in recognition of their service and the end of their terms

**IN RE: COUNCIL COMMENTS**

Vice Mayor Graham said that she would look into getting a plaque made for Planning Commission member Kathi Luckard for her work in getting the Town on the Virginia register of historic places and present it at the July 6<sup>th</sup> Planning Commission meeting.

Councilperson Prack asked if there was any resolution to the trespassing issues at the Reservoir. Town Administrator John Barkley said that it was posted and he offered to make it part of the community's routine patrol.

**IN RE: ADJOURNMENT**

With no further business, Mayor Heyner adjourned the meeting at 10:57 p.m.

Respectfully submitted,

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John W. Heyner, Mayor

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Susanne Kahler, Recording Secretary