

MINUTES OF A REGULAR MEETING OF VINTON TOWN COUNCIL HELD AT 7:00 P.M. ON TUESDAY, SEPTEMBER 21, 2010, IN THE COUNCIL CHAMBERS OF THE VINTON MUNICIPAL BUILDING LOCATED AT 311 SOUTH POLLARD STREET, VINTON, VIRGINIA.

MEMBERS PRESENT: Bradley E. Grose, Mayor
Robert R. Altice
Carolyn D. Fidler
Matthew S. Hare
William W. Nance

STAFF PRESENT: Chris Lawrence, Town Manager
Consuella Caudill, Asst. Town Manager
Elizabeth Dillon, Town Attorney
Darleen Bailey, Town Clerk
Herbert Cooley, Police Chief
Michael Kennedy, Public Works Director
Ben Cook, Police Captain
Karla Turman, Associate Planner
Joey Hiner, Assistant Public Works Director
Stephen Foutz, Police Officer

Agenda

- A. 7:00 P.M. –Roll Call and Establishment of a Quorum
- B. INVOCATION –Pastor Robert Wayne
- C. PLEDGE OF ALLEGIANCE TO THE U. S. FLAG
- D. CONSENT AGENDA
- E. AWARDS, RECOGNITIONS, PRESENTATIONS
 - 1. Police Officer of the Month for August, 2010 – Stephen Foutz
- F. CITIZENS’ COMMENTS AND PETITIONS
- G. OLD BUSINESS
- H. TOWN ATTORNEY
- I. TOWN MANAGER
- J. MAYOR
- K. COUNCIL
- L. ADJOURNMENT

WORK SESSION

- 1. Discussion – Request to Allow the Keeping of Chickens within the Town Limits
- 2. Discussion – Hardy Road Rezoning Request

Mayor Grose called the regular meeting to order at 7:00 p.m. Following roll call, Dr. Robert Wayne gave the invocation and Councilman Altice led the Pledge of Allegiance to the U.S. Flag.

Roll call, invocation and Pledge of Allegiance to U.S. Flag.

Mr. Nance read a letter from Chief Cooley recognizing Police Officer Stephen Foutz as Police Officer of the Month for August, 2010.

Mr. Lawrence noted that Town Council would be holding their retreat the following Wednesday evening, September 22nd from 5:30 p.m. until 8:30 p.m. and on Thursday, September 23rd from 8:30 a.m. until 4:00 p.m., at the Vinton War Memorial.

The Town Manager acknowledged that the Police Department was in the accreditation process which should be completed the next day.

Mayor Grose recognized the Police Department's efforts in the accreditation process.

He noted that the entire Town Council and the Town Manager attended Thrasher Memorial United Methodist Church on the previous Sunday to present the congregation with a proclamation thanking them for their efforts at the Vinton Pool this summer. He pointed out that if it had not been for the Church's help, the pool might not have been able to operate this year.

Mr. Nance thanked Dr. Wayne for his invocation and noted that it was a privilege having Dr. Wayne present at the meeting.

Ms. Fidler commended Vinton Baptist Church and Thrasher Memorial United Methodist Church for organizing the "5th Quarter" at the Middle School and the High School on football game nights.

Mayor Grose adjourned the regular meeting at 8:11 p.m.

WORK SESSION

1. Request to Allow the Keeping of Chickens within the Town Limits

Mr. Lawrence questioned Council's interest in having Town staff devote time and effort to look into the issue of whether to allow the keeping of chickens within the Town limits. He noted that Janet Scheid and Dawn Michelsen have expressed interest in raising chickens on their individual properties as a way to produce eggs that is good environmentally and would provide them and their families with eggs that are chemical free. He noted that the raising of chickens is becoming a trend across the country for this reason and went on to say that the eggs produced would be for the property owners' own private use and not for commercial gain.

Mr. Lawrence advised that if Council is interested, the Planning Commission would be asked to study the issue and make a recommendation to Council. He noted that Blacksburg and the City of Radford are currently looking into this issue and that Roanoke City already allows it with certain restrictions.

Ms. Scheid advised that she and Ms. Michelsen are interested in raising a few hens on their property. She went on to say that they were not interested in having roosters because of the noise they make. Ms. Scheid listed limitations placed on the raising of chickens in the City of Roanoke which she felt were very reasonable. She also stated that they would not be slaughtering the chickens, they were interested only in the eggs the hens would provide.

Ms. Scheid reported that she has almost three acres of land that would easily accommodate a chicken coop that can be moved around her property allowing the chickens to eat insects and to fertilize the property.

Ms. Michelsen introduced Mary Ann Marelli who lives in Roanoke City and is a bee keeper, a nutritionist, a chicken keeper and raises her own food. Ms. Marelli spoke in favor of Ms. Scheid's and Ms. Michelsen's request. Ms. Scheid suggested that if her request is approved, the Town might want to consider allowing the keeping of chickens with a permit process on a case by case basis such as the one used for beekeepers. Both Ms. Michelsen and Ms. Scheid stated that they would limit the number of chickens they keep to three or four.

Mr. Hare inquired as to how many properties in the Town would be large enough to accommodate chickens. Mr. Lawrence replied that he would recommend that a lot would have to be at least an acre in size. He pointed out that the Town has very few residential properties that are that large and would check with the County's GIS system to determine the exact number of properties in the Town that are an acre or more. Mr. Hare questioned whether limiting it to properties of at least an acre would discriminate against those whose property was not that large. Mr. Lawrence responded that the justification for the size requirement is based on impact to the neighborhood.

There was a brief discussion on the chances of chickens acquiring Avian flu and other communicable diseases.

The Mayor noted that he would like to see requirements from Rocky Mount's ordinance included in the Town's ordinance. Following further comments, Mr. Nance advised that he felt that the issue was worth further study. Mayor Grose asked how Ms. Michelsen and Ms. Scheid felt about limiting the number of chickens allowed to five. They both agreed that five would be fine for them but felt that Council would need to get an answer to that question at the public hearing.

It was the consensus of Council to have staff proceed with setting a public hearing to consider the issue.

2. Discussion – Hardy Road Rezoning Request

Mr. Lawrence reported that a public hearing has been scheduled for the October 5 Council meeting to take questions and comments to rezone five properties located on Hardy Road from RB Residential Business to GB General Business.

Karla Turman reported that Nita Setzer and five other residents have applied to rezone property located at 1037, 1045, 1027, 1021 and 1015 Hardy Road. It was noted that Ms. Setzer would be representing the other four property owners. Ms. Turman reported that the five properties in question are all zoned RB Residential Business and that Ms. Setzer is requesting that the all five properties be rezoned to GB General Business. She reported that staff had recommended that the petitioners consider having a traffic study done before a public hearing is held on the issue. Ms. Turman noted that the petitioners had been advised by Balzer and Associates that a traffic study could not be done until they had some idea of the type of business or businesses that would be developed on the properties. She went on to say that the engineers did submit traffic numbers for two types of possible businesses that would generate a high amount of traffic. The two types were: a 15,000 square foot pharmacy/drug store with a drive-through window and a 4,000 square foot fast food restaurant with a drive through window. Ms. Turman stated that the pharmacy could generate 1,322 trips for a week day with 118 trips during the a.m. peak hours from 7:00 to 9:00 and 143 trips for the p.m. peak hours between 4:00 to 6:00. She advised that Balzer's traffic numbers for a fast food restaurant was estimated to be 1,984 per week day; 219 trips in the morning peak hours and 187 in the evening peak hours. Ms. Turman reported that Balzer indicated that several road improvements would most likely be required.

Ms. Turman advised that the petitioners have amended their original proffers to include a traffic impact study for each project if the Town requires it. She went on to explain that the proffer states that if there is one project developed on all five properties, one traffic study would be done, but if five different projects are developed separately, the Town has the option to require a traffic study for all five properties.

Mr. Nance questioned when the traffic study would be completed and Ms. Turman replied that it would take place after the rezoning had been approved and would be submitted to the Town along with the site plan. Mr. Nance inquired as to whether a traffic study is usually required when a rezoning is requested and Ms. Turman replied that it depends on whether or not VDOT requires it. She further replied that VDOT would require a traffic impact study only if a rezoning is requested on a Town owned street that is located within 3,000 feet of a VDOT maintained street. Ms. Turman explained that when Ms. Setzer applied for a rezoning in 2007, the proposed project would not have come within the 3,000 feet of a VDOT maintained road. She went on to say that with the addition of the fifth property, any development done on the five properties would come within 3,000 feet of a state maintained road. She further explained that depending on the type of business being planned

for the properties and the amount of traffic generated, the Town and VDOT would most likely require a traffic impact analysis.

Mr. Nance questioned what would happen if the traffic impact study shows that the generated traffic numbers would be much higher than anticipated. Ms. Turman replied that she did not know the answer to that question. Mr. Nance asked if the project could be turned down if that would occur. Mr. Lawrence responded that Town staff would negotiate with the developer to work it out.

Mr. Altice pointed out that a study done by Roanoke County indicated that Hardy Road should be zoned for business because it is a very highly traveled road.

Ms. Turman discussed proffers submitted by the petitioners and noted that the proffers were voluntary. She further noted that the Town is asking that the petitioners consider allowing the Town to have the right to choose an engineer for any traffic impact study done for any development of the properties in question.

Ms. Turman reported that she had pulled crash data from police reports for the past five years and found that there had been no reported accidents at the Nelson Street and Hardy Road intersection or South Preston and Hardy Road intersection. She went on to say that the worse intersection for accidents for Hardy Road is at By-Pass Road which is due to drivers turning left and fail to yield to oncoming traffic or when someone was hit in the rear when they were stopped at a stop light.

Mr. Hare questioned whether there had been problems when CVS was constructed and was advised that the CVS property was already zoned General Business and was a use by right. A council member questioned whether the Town would lose the Town's sidewalk and bike path adjacent to properties in question and was advised that if they were damaged or destroyed, the developer would have to replace them at his expense.

Mr. Nance made the statement that if the Town does not allow for the development of businesses on a five-lane highway, the Town would be required to either cut services or raise taxes. He went on to say that if Council does approve the rezoning, some citizens who live in Dillon Woods would be greatly impacted. He felt that now is the time to negotiate proffers that would limit impact on Dillon Woods residents who live directly behind the petitioners' property.

Ms. Dillon mentioned a recent Virginia Supreme Court case having to do with proffers and when they can be amended. She advised that she would provide Council with a summary of that case.

Mayor Grose stated that his main concern was the traffic, but with the right proffers he felt the neighborhood could be protected. He noted that he did not want to impede business growth but that there is a traffic safety issue to consider that he hoped could be solved by a traffic study. The Mayor was concerned that if the rezoning is approved without having a traffic impact study done, it would indicate

that the road is safe. Mr. Lawrence responded that the road is large enough to handle the traffic. He went on to say that the biggest traffic safety concern involvesturning movements, not the amount of traffic generated. He stressed that Council has more control of the situation before the rezoning than they will after the rezoning.

The Mayor stated that he felt the proposed rezoning would be a great idea if his safety concerns are addressed. Mr. Lawrence pointed out that it would help if Council's safety concerns could be clarified. Mayor Grose responded that he was concerned with the possibility that there could be as many as five different businesses with five different entrances and he felt this would be much more of a safety issue than one entrance would be.

Mr. Kennedy advised Council that the Town could request a proffer limiting the number of entrances to one common shared entrance if the five properties are developed individually. Secondly, he recommended cancelling the public hearing scheduled for October 5th and to have a neighborhood meeting instead. Mr. Kennedy noted this would give the Town and the applicants a chance to hear from the residents directly and it would give the Town the opportunity to establish a list of proffers that would satisfy residents as well as put the applicants in the best position to market their properties. The Town Attorney responded that the Town does have that option. She also pointed out that if the public hearing is held on October 5, Council does not have to make an immediate decision on the issue. Mr. Lawrence questioned whether this would be a good idea since it could cause confusion and recommended going ahead with the public hearing as scheduled.

Ann Pope, the petitioner's realtor, spoke up to say that the properties have received numerous inquiries but because of the difficulty in getting them rezoned, the interested parties backed off. She went on to say that it is their intention to have one buyer for all five properties. Ms. Pope felt the property owners are willing to try to address the neighborhood's concerns. She pointed out that with the addition of the fifth property, there would be more distance for turning.

Ms. Scheid disagreed with Mr. Lawrence's comment that cancelling the public hearing and having a community meeting instead would be confusing. She advised that the petitioners have been asked to hold a community meeting since the beginning and they have not done so. She further advised that a community meeting would provide a completely different forum and would get a different level of input than a Council work session or public hearing would get. Ms. Scheid stated that she had concerns with Council approving the rezoning before the applicant has committed to proffers that may come up after the traffic impact study has been completed. She agreed that Hardy Road is appropriate for business but was very concerned with the turning movements and the increased volume of traffic that would be generated on Hardy Road due to the rezoning.

Ms. Anita Setzer, owner of one of the properties in question, spoke in favor of the rezoning request. She felt that Vinton missed out on a golden opportunity three

years ago when Walgreen wanted to develop the properties. She pointed out that the Town's future land use map recommends that the area in question have a General Business use.

Ms. Fidler stressed that the one thing that had prevented her from approving the rezoning request in 2007 was the fact that the developer did not have a traffic impact study done. She stated that she wanted to work with Ms. Setzer and the other property owners but she also has an obligation to look after the health and safety of the community. In response to a question from Ms. Setzer as to what the five property owners could do to reassure Council that the rezoning would be good for Vinton, Ms. Fidler stated that having the traffic study done would help. Mayor Grose questioned the proposed developer's refusal to have a traffic impact study done until after the property is rezoned. Ms. Setzer replied that the developer wants the property owners to pay to have it done and none of them can afford to do it.

Mr. Hare questioned why the Town has not paid for the study to be done. The Mayor responded that he felt that tax payer money should not be used for this purpose. Mr. Hare disagreed with the Mayor and pointed out that the Town frequently spends tax dollars for downtown businesses. He felt this would help settle the issue once and for all.

Mr. Kennedy recalled that when the issue came up in 2007, the Town had recommended that the traffic study be delayed until after the community impact was gauged. He further recalled that the community had been overwhelmingly opposed to any type of commercial development at that time. He went on to say that he felt it was unreasonable to ask the developer or the petitioners to spend \$20,000 for a traffic impact study when there are so many citizens that are opposed to the project which may convince Council to deny the requested rezoning. He felt that if the traffic study is the key element and the proffer is worded correctly, any resulting traffic issues can be reasonably solved. Mr. Kennedy recommended that Council consider whether the solution to any traffic related issue would be enough to convince Council to approve the rezoning against the overwhelming objections of the nearby citizens.

In response to a question from Mr. Hare on the cost of a traffic impact study, Mr. Kennedy responded that the cost would depend on the degree of information needed. He noted that there are a number of engineers that could use a range of possible businesses to come up with a plan that could be used by the developer. Ms. Pope stated that she felt that the intended developer would not have a problem with doing a traffic impact study if the property is rezoned.

Mr. Nance noted that his position was slightly different from the Mayor's now that the proposed developer has agreed to have a traffic study done after the rezoning. He went on to say that he felt the Town could handle the traffic safety issue to a satisfactory point if the engineer hired to do the study is approved by the Town. Mr. Nance added that his main concern would be the immediate impact the

development would have on the adjoining land owners. He also felt that the proffers already agreed upon should help mitigate the concerns shared by the adjoining property owners, such as a larger buffer than what is required by the Town Code and landscaping to block the view and sound. Mr. Nance added that he believed that rezoning the five properties with as many proffers to limit the impact to the neighbors as possible, would be good for the Town. Ms. McMillan recommended that the proffers requested should be very specific.

Mr. Altice commented that he had received more complaints from people who only travel through the Town than from adjacent property owners.

Ms. Turman pointed out that when a blanket rezoning is done by the Town, there are no restrictions placed on how the properties involved would be developed. With the current application, Council has the opportunity to obtain proffers that would decrease the impact on the adjoining property owners.

Ms. Turman advised that if a public meeting is to take place, it needs to be scheduled sometime in the next couple of weeks before the public hearing is held. The Mayor responded that he felt that since most everyone in Town already knows about the rezoning request, he felt they should go ahead with the plan they have so that a decision can be made one way or the other.

There was a discussion regarding Walgreen's 2007 rezoning request and what the traffic pattern would have been and how it would have impacted traffic in the area.

Mr. Hare asked the realtor, Ann Pope, if the developer would consider allowing the Town to control the entrances and exits. Ms. Pope replied that she could not answer that question but she felt that they would be able to come to an agreement on landscaping.

In response to a comment regarding the possibility that there could be five different businesses developed on the property, Mr. Hare stated that he did not believe there could possibly be five different businesses on the properties because the lots are too small to accommodate parking requirements. Mr. Kennedy felt that the Town should limit the number of entrances to one or two.

Ms. Turman reported that three people spoke in opposition to the rezoning request at the Planning Commission public hearing but most of the comments made were in favor of the request. She added that most of those who spoke in favor of the rezoning were business owners. She noted that Tommy Wood had pointed out at the meeting that before five properties could be developed individually, the houses would have to be demolished or the business owner would have to go through the Change of Use process which can be very expensive. As a result, Mr. Wood felt that it was not very likely that the properties would be developed individually.

Mayor Grose reported that he liked the idea of the properties being zoned for a commercial use but that he is concerned about traffic safety. He stated that he felt

it would be more appealing to him if there was only one business on the five properties with entrances limited to one or two.

Ms. Turman reported that she had received a comment from a citizen who had stated they did not want to see any type of automobile related business on the property and had asked that Council request that this be a proffer for the properties. Mr. Lawrence cautioned Council to be careful about judging a particular type of business as not being valuable.

There being no further business, the work session adjourned at 9:21 p.m.

APPROVED:

Bradley E. Grose, Mayor

ATTEST:

Darleen R. Bailey, Town Clerk