

MINUTES OF A REGULAR MEETING OF VINTON TOWN COUNCIL HELD AT 7:00 P.M. ON TUESDAY, NOVEMBER 2, 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
Darleen Bailey, Town Clerk
Michael Kennedy, Public Works Director
Joey Hiner, Assistant Public Works Director
Karla Turman, Planning Associate
Steve Doyle, Vinton Police Department

Agenda

- A. 7:00 P.M. –Roll Call and Establishment of a Quorum
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE TO THE U. S. FLAG
- D. CONSENT AGENDA
- E. AWARDS, RECOGNITIONS, PRESENTATIONS
- F. CITIZENS' COMMENTS AND PETITIONS
- G. PUBLIC HEARING –
 - 1. Request to Rezone Properties Located at 1015, 1021, 1027, 1037 and 1045 Hardy Road from RB Residential Business to GB General Business to Allow for Commercial Development
 - a. Staff Report
 - b. Applicant Statement
 - c. Public Comment
- H. TOWN ATTORNEY
- I. TOWN MANAGER
- J. MAYOR
- K. COUNCIL
 - 1. Finance Committee Report
- L. CLOSED MEETING
 - 1. Request to Convene in a Closed Meeting Pursuant to §2.2-3711 (A) 3 – Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body

2. Reconvene and Adopt Certification of Closed Meeting
L. ADJOURNMENT

Mayor Grose called the regular meeting to order at 7:00 p.m. Following roll call, Madison and Savannah Hare, daughters of Councilman Matt Hare gave the invocation and led the Pledge of Allegiance to the U.S. Flag.

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

Police Sergeant Stephen Doyle recognized the recent Citizens Police Academy graduation and presented academy graduates, Councilman Altice and Councilman Hare with certificates.

Mayor Grose opened the public hearing at 7:06 p.m. to take comments and questions on a request to rezone properties located at 1015, 1021, 1027, 1037 and 1045 Hardy Road from RB Residential Business to GB General Business to allow for commercial development.

Adopted Ordinance No. 904 approving the rezoning of five properties on Hardy Road

Ms. Turman reviewed the staff report that was presented at the October 5th Council Meeting and listed the following proffers submitted by the petitioners:

1. The following business uses shall not be permitted on the properties: adult day care centers; auto and truck sales and service establishments; veterinary clinics and animal hospitals; flea markets; gasoline service stations, self-service gasoline stations and auto service centers; half-way houses; outpatient mental health centers; Outpatient substance abuse centers.
2. A traffic study will be provided by the developer of the property as a part of the site plan review process as required by the Town of Vinton for site plan review and approval.
3. Properties will be developed with a maximum of two entrances.
4. Properties will be developed in accordance with the traditional buffer yard requirements as shown and described on the attached Exhibit "A" prepared by Balzer and Associates, Inc. dated October 28, 2010.
5. All site/parking lot lighting shall have fully concealed fixtures. No more than 0.5 foot candles shall be permitted to cross any

adjoining property line.

Ms. Turman noted staff comments on the proffers that she had received on the previous Friday:

1. Regarding proffer no. 1, prohibition of certain uses on the property would be enforceable by Town staff under the Vinton Zoning Ordinance.
2. Regarding proffer no. 2, staff recommended a change in the wording but due to time restrictions, it had not yet been discussed with property owners.
3. Regarding proffer no 3, entrances and exits will be considered during the traffic impact analysis and traffic study.
4. Regard proffer no. 4, Exhibit A that shows the various buffer zones being proffered is enforceable along with the proffers made by the petitioners.
5. Regarding proffer no. 5, regarding lighting, no more than .5 ft. would be permitted to cross the property line which would be enforceable by the Town.

David Bullington, Counsel for the petitioners, spoke on behalf of the five property owners.

He reported that the five properties currently have a total of seven driveway entrances. He reviewed uses allowed under the RB Residential Business designation and advised that the properties in question are no longer viable for residential use. He reported that the five properties are currently being used mostly as rental property and noted that the property owners have had difficulty finding and retaining residential tenants due to the properties' location on a highly traveled highway nor have they been successful in attracting businesses.

Mr. Bullington pointed out that medical offices or banks, which are currently allowed in RB zoning districts, would probably generate as much business as a retail pharmacy. He reported that the petitioners desire to have a single retail user, preferably a retail pharmacy user.

The attorney advised that the petitioners are unable to proffer a site plan or to proffer a single user as they do not yet have a signed contract or letter of intent. He stressed that a commercial use is

consistent with future planning for this corridor, the Town's 2004 Comprehensive Plan and the Vinton Corridor Plan that was adopted earlier this year. He also submitted that it is also consistent with what is taking place on Hardy Road. He noted that the properties in question are surrounded by commercial and institutional uses and would be consistent with the proposed zoning.

Mr. Bullington stated that the intended use for this property as a retail pharmacy could generate \$9,000,000 to \$10,000,000 in gross sales which would provide a significant revenue source for the Town. He felt it would be the best use for the land and would be very good for Vinton.

Mr. Bullington addressed concerns that had been raised with the requested rezoning and the proffers that were submitted. He advised that petitioners have every expectation that there will be only one development on the properties but cannot proffer this condition without a signed contract as it would greatly restrict what can be developed on the property if the proposed development does not occur. He went on to say that the petitioners have proffered significant limitations on uses for the property listed in proffer number one.

Mr. Sean Horn with Balzer and Associates Engineers, spoke in support of the rezoning and reported that his firm had reworked and resubmitted the landscaping proffers to try to mitigate concerns from citizens in Dillon Woods. He noted that a 50' preservation buffer has been proffered which would preserve all of the existing trees along the rear property line where it adjoins Dillon Woods as well as a 10' landscaping buffer. Mr. Horn advised that buffers on the side would be 15' buffers with the same landscaping requirements that had been requested by the Town.

Mr. Horn advised that the addition of the traffic study in the list of proffers was significant. He explained that the intent of the language in the proffer regarding the traffic study was to allow the Town of Vinton to control the type of traffic study that would need to be done. He added that if a traffic study is done using VDOT's standards, it would show that the traffic generated by the site would not require a VDOT traffic impact analysis.

Mr. Nance questioned whether landscaping plantings would take place towards Hardy Road. Mr. Horn responded that there would be plantings at that location but any landscaping done would not infringe on site distances. Mr. Nance then asked for clarification as to whether the vegetation screen would impact the ability to move the

eastern most entrance and exit further away from the By-Pass intersection. Mr. Horn replied that if it was full access, it would impact it but that if two entrances were shown to be viable on the property, the one closest to the intersection would be a right in and right out only; would likely have its own dedicated turn lane and would taper into a merge lane.

In response to a question from Mr. Hare regarding the proffer for the preservation buffer, Mr. Horn explained that this proffer includes a provision that none of the vegetation in that area could be removed except for diseased or dead vegetation and would be done only with the Town's permission. He went on to say that the Town could then require additional plantings to replace any trees that are removed.

Mayor Grose asked if the air conditioning units for the proposed business would be visible from the neighboring properties. Mr. Horn responded that as the evergreen screening grows, it would screen them from view.

During Janet Scheid's comments opposing the requested rezoning, she thanked the petitioners for the improvements in the recommended proffers that were requested by the neighborhood group but noted there were a couple of important issues that were not addressed by the petitioners that she felt needed to be discussed such as a limitation on business hours. Ms. Scheid went on to say that the neighboring residents have a right to peace and quiet after 10:00 p.m. and before 7:00 a.m. She asked that the petitioners give that request some additional consideration. Another proffer mentioned by Ms. Scheid that had not been considered was the request that the business not locate a drive-through window at the rear of the site due to the noise and activity that would take place.

Mary Beth Layman of 1028 Almond Drive spoke in opposition to the rezoning. She asked that the petitioners consider granting a proffer of a 75' buffer. She also stated her concerns that the 15' side buffer might not be wide enough. Ms. Layman also had concerns with noise from HVAC equipment and asked that shielding with other types of material in addition to the plantings, be considered. She asked that parking be limited to the front and side of the property. She voiced another concern that the plantings in the petitioners' proffers were smaller than requested by the neighborhood group and suggested an alternative of one tree per every 10 feet, double planted and staggered to offer a tighter screen. Ms. Layman asked that traffic concerns be carefully considered. She expressed her appreciation for having the opportunity to be involved in working out

proffers that would lessen the impact on the neighboring property owners.

Mr. Charles McCarty spoke in favor of the rezoning. Keith Setzer stated that with the proper buffers, the Dillon Woods neighborhood will not be affected by the new development. He went on to say that there are many other businesses in the Roanoke Valley that are adjacent to residences without any consequences or complaints.

Mr. Nance pointed out that the rezoning would completely change backyards for the residents. He stated that he is in favor of the rezoning but that the petitioners need to understand that these families would go from having single-family homes in their back yard to having a large drug store in their back yards.

Mr. Chris McCarty stated that he was very impressed with the proffers that were given by the petitioners. He felt that the proposed development would be a good for Vinton.

Ms. Fidler stated that this process had been a learning experience for her. She stated that because the area would eventually have to be rezoned to general business, she supported the rezoning request.

Mr. Altice expressed appreciation for the proffers that were agreed on by the petitioners and noted that it would be impossible to get an agreement on everything that everyone wanted. He also supported the rezoning.

Mr. Nance stressed that citizens on both sides of the issue are all good people and are all neighbors. He commented that the petitioners are just asking to be able to use their property in the best way possible and the neighboring residents want to be able to continue enjoying their backyards as they always have. Mr. Nance stressed that the number of ways to ingress and egress the property should be limited. He stated the Town now has an agreement to have a traffic study done and to determine what the traffic study will entail as well as a limitation placed on the number of entrances/exits. He stated that he felt he could now support the petitioners request to rezone the five Hardy Road properties.

Mr. Hare stated that he shares concerns with the neighborhood because he lives in the neighborhood and cares about his neighbors and their concerns. He went on to say it has come down to measuring risks and he felt that the Town would be incurring more risks leaving the properties as they are than if they are rezoned. Mr.

Hare noted that the five properties have been zoned Residential Business for 22 years and during that time, it has become obvious that the current zoning is not appropriate for these properties. He went on to say that Council has no control over what happens to the properties at the present time but with the requested rezoning, it would be possible for them to help cushion the impact on the Dillon Woods neighborhood. The Councilman stated that he has gotten comments from many people in Vinton that do not live in the area regarding the requested rezoning and they either support it or they do not care one way or the other. He stated that because he represents the entire Town, he felt he had to support the request.

Mayor Grose echoed each Councilmember's comments. He added that because the Town is very developed, there are many businesses and residences that are located side by side and most of the time, it works. He advised that Council has to protect residential areas through proffers and achieving a balance between what is good for business and what is good for neighborhoods. He stated that he appreciated the work performed by the citizens as well as by the petitioner. Mayor Grose pointed out that the petitioner had "gone a long way" to satisfy as many citizens as possible. He felt the proffers make this a reasonable and legitimate project and shared Mr. Hare's comment that this is the best choice for the properties. He commented that it is still not known what would be developed on the properties but the Town now has proffers to limit what can be developed on the five properties. He stated his concern that if this request is not approved, five business could be put on the properties that might not have the resources to provide the type of buffers that are needed to protect the residential areas. He concluded that he too was in favor of the rezoning requested.

Mayor Grose closed the public hearing at 8:24 p.m.

Mr. Altice moved to adopt proposed Ordinance No. 904 approving a petition by Rachel Juanita Setzer to rezone properties located at 1015, 1021, 1027, 1037 and 1045 from RB Residential Business to GB General Business to allow for commercial development. The motion was seconded by Mr. Nance and passed unanimously on a roll call vote.

Ms. Dillon reported some early election results.

Mr. Lawrence noted that a Chamber of Commerce Luncheon meeting to be sponsored by the Town is scheduled for November 16th at 11:30 p.m. at the Vinton War Memorial.

The Town Manager noted that two additional businesses had been

approved for a façade grant and reported that most of the work done by the EDA this year was done in Vinton.

Mayor Grose congratulated Mr. Altice and Mr. Hare on their recent graduation from the Police Academy. He thanked staff for the work done on the rezoning request and appreciated the professional manner in which it was handled.

Ms. Fidler reported that she had received a very nice comment from a citizen who had remarked on how the Town had improved during the past few years.

Mr. Hare briefly reported on a Finance Committee Meeting held on the previous Thursday to discuss a proposal for a loan program to fund sewer connection fees. He then made comments regarding a new summary page for the Financial Statement that had been formulated by the Finance Committee to provide an overview of the Town's revenues at a quick glance.

Ms. Fidler questioned whether the tobacco tax was coming in at the projected rate and was advised by Mr. Hare that the tax was coming in as anticipated.

Mr. Hare questioned whether the Governor's plan to privatize the sale of alcoholic beverages would generate taxable income for the Town. Mr. Lawrence replied that at this point, it does not look as if it would be a taxable item for localities but ABC sales would be included in gross receipts for business license tax calculations. It was noted that currently, the Town reaps very little from ABC stores.

The Town Attorney pointed out that there is a move by cigarette wholesalers to change legislation so that the State Department of Taxation would be responsible for collecting cigarette taxes and enforcing it. She noted that this could harm local governments. Mr. Lawrence advised that when the State took over collecting communications utility tax, the Town lost over \$60,000.

Mr. Lawrence reported that the next Finance Committee Meeting has been scheduled for November 9th at which time the Town's auditor will present a preliminary audit report for FY 2009/2010.

Mayor Grose expressed his appreciation to staff for working so closely with the Finance Committee.

At 9:00 p.m., Mr. Hare moved that Council go into a closed meeting pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia as

amended, for discussion or consideration of the acquisition of real property for a public purpose. The motion was seconded by Mr. Nance and approved unanimously on a roll call vote.

At 10:03 p.m., the regular meeting reconvened and the Certification that the closed meeting was held in accordance with State Code requirements was approved on motion by Mr. Hare, seconded by Ms. Fidler and passed on a unanimous roll call vote.

Mayor Grose adjourned the regular meeting at 10:05 p.m.

APPROVED:

Bradley E. Grose, Mayor

ATTEST:

Darleen R. Bailey, Town Clerk