

**CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
REGULAR MEETING MINUTES
APRIL 24, 2018 – 7:00 P.M.**

A REGULAR MEETING OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VIRGINIA, ON APRIL 24, 2018 AT 7:00 P.M.

COUNCIL MEMBERS PRESENT: Mayor D. Michael Barber; Vice-Mayor Bradford J. Stipes; Samuel M. Bishop; Harry Collins; Steve Huppert; Merissa Sachs; Henry Showalter. ABSENT: None.

ADMINISTRATION PRESENT: Town Manager Randy Wingfield; Clerk of Council Michele Stipes; Town Attorney Theresa Fontana; Director of Public Relations Melissa Demmitt; Finance Director/Treasurer Val Tweedie; Director of Planning Andrew Warren; Director of Engineering Wayne Nelson; Director of Public Works Jim Lanciañese; Rescue Chief Joe Coyle; Police Chief Mark Sisson.

I. CALL TO ORDER

- A. Moment of Reflection
- B. Pledge of Allegiance

II. ADJUSTMENT OF THE AGENDA

III. PUBLIC HEARINGS

- A. Proposed closure of Hickok Street to vehicular traffic from West Main Street to Commerce Street NW.

Julie Neel, 1590 Smith Creek Road, Director of Community Engagement for Christiansburg Presbyterian Church, expressed appreciation for Town Manager Wingfield, Planning Director Warren, and the late Bill Aldridge for including the church in discussions regarding events held on Hickok Street and plans for the future of the street. However, she shared concerns the church had with the immediate closure of the street, including the proposal to utilize expensive bollards as a temporary blockade, and the affect an immediate closing would have on the highly utilized church entrance off Hickok Street. Ms. Neel said the church was excited to continue working with the Town in creating an event center on Hickok Street, but requested the Town reconsider the permanent closure of Hickok Street at this time to allow for further discussions within the church congregation and additional planning with the Town. Ms. Neel requested the Town provide modifications to its street closing plan that would allow the church to continue to use its paved drive to the covered church entrance, and to find ways to reduce cut-through traffic through church property if Council voted to approve immediate closure of the street.

Councilman Stipes reported that the Street Committee understood the concerns expressed, and that the Town intended to work with the church to address those concerns.

B. Conditional Use Permit request by Roger Woody for an approximately 2.209-acre portion of tax map no. 528 A 83 located at 1145 Roanoke Street to construct seven (7) single-family dwellings in the B-3, General Business zoning district. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

Doug Meredith of LMW Engineering, explained that he worked with Showcase Home Builders and offered to answer any questions.

C. Agreement to amend Montgomery Regional Solid Waste Authority Articles of Incorporation.

Town Manager Wingfield reported that the amendment would allow for staggered terms for board members, which would provide more continuity on the board, and would extend the duration of the Town's agreement with Montgomery Regional Solid Waste Authority to the year 2040.

IV. CONSENT AGENDA

- A. Council meeting minutes of April 3, 2018, April 10, 2018, and April 18, 2018.
- B. Monthly Bills.
- C. Adoption of Amended Town Procurement and Surplus Property Manual.
- D. Schedule Public Hearing on June 12, 2018 for a rezoning request by Guy Matthew and Wendy W. Funk at 1800 Depot Street N.E. (Tax Map Nos. 498-A 90 and 498-A 90A) in the B-3, General Business zoning district to R-1, Single Family Residential zoning district. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

Councilman Stipes made a motion to approve the consent agenda with correction to minutes, seconded by Councilman Showalter. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.

V. CITIZEN COMMENTS

- A. William Craft, 1005 Madison Lane in Blacksburg and owner of Craft Self-Storage in Christiansburg, commented that the draft noise ordinance did not provide an exemption for church related activities, church bells, and funerals, etc., and questioned how those situations would be handled. Police Chief Sisson replied that if the draft ordinance was approved, it would be enforced as written. Mr. Craft recommended postponing Council action to allow for more discussion regarding those types of situations.
- B. Jared and Marie March, 218 Sowers Road, Floyd, owners of Due South BBQ and Fat Back Soul Shack in Christiansburg, spoke in opposition to the proposed noise ordinance and the use of the decibel system in measuring noise in the community due to the effect of ambient noise. Mr. March commented they believed the Town's refusal to grandfather their two businesses and Starlite Drive-In Theater was a targeted effort to discriminate against those three businesses. In addition, Mr. March stated their concern that the Conditional Use Permit fee would place an unfair burden on small businesses, and that a CUP would beholden them to the government to continue to operate as they have been. Mr. March commented that he believed the draft ordinance was unenforceable as written, and proposed establishing a

tourism zoning district, allowable per state code, along Roanoke Street as a solution to exempting certain businesses from the noise ordinance.

- C. Jonathan Taylor, 685 School Lane, spoke in opposition to the draft noise ordinance and express concern that the ordinance was so restrictive that, if approved, mowing a lawn would be in violation, and he expressed support for establishing a tourism zoning district along Roanoke Street. Mayor Barber clarified that, per the draft ordinance, lawn mower noise would not be a violation between the hours of 7:00 A.M. and 10:00 P.M.
- D. Leslie Brooks, Blacksburg resident and artist on the Crooked Road Tour, said she provided live music entertainment at Fat Back Soul Shack and explained the necessity of a sound system at that location due to ambient noise. Ms. Brooks expressed her concern that the draft noise ordinance may limit businesses ability to provide entertainment, which could negatively impact the viability of certain businesses.
- E. Stacy Martin, 1480 Turnberry Lane, Riner, provided his background as a Certified Financial Planner, financial advisor, and small business owner as evidence of his understanding of how the draft noise ordinance could impact local small businesses. Mr. Martin talked about the difficulties placed on small businesses by governments, and expressed concern that Christiansburg was indifferent to the challenges faced by its own small business community. Mr. Martin spoke in opposition to the draft noise ordinance and noted his main concerns that ambient noise had not been addressed, and that the proposed draft ordinance could be weaponized against certain small business. As a solution, he proposed that the Planning Commission review all noise complaints prior to the issuance of a ticket, and all noise complaints be investigated by a citizen panel that included business owners.
- F. Chris Waltz, 1370 Rigby Street, talked about the noise ordinance for Winchester, Virginia, and expressed concern that the proposed noise ordinance did not consider ambient noise. Mr. Waltz pointed out differences between the two noise ordinances and questioned whether or not the Town's ordinance would be enforced on a complaint-basis only as talked about during the work session on April 18. Mr. Waltz pointed out that state agencies were required to consider the economic impact of ordinance changes and noted that an analysis had not been done for the proposed noise ordinance, and he requested Council consider his comments.
- G. Dr. John Casali, 385 Emerald Boulevard, said he assisted the Town on the draft noise ordinance from a technical issue standpoint, and stated that the use of the decibel system was necessary in any noise ordinance due to quantitative, objective, and defensible results, and further noted that the Supreme Court did away with subjective noise ordinances. Dr. Casali talked about event-based noise versus ambient noise as discussed in the April 18 work session and stated that the draft noise ordinance did address ambient noise with an "either/or" approach through the use of a decibel meter and/or a "plainly audible" determination, noting that event-based noise would fluctuate, while ambient noise would not.
- H. Shannon Dove, 3948 Stanley Drive, spoke in support of Starlite Drive-In Theater as a safe, family-fun activity for the past sixty-five years. Ms. Dove said it would be a shame if the Town imposed impossible noise regulations and asked for a peaceful resolution to the matter.

VI. INTRODUCTIONS AND PRESENTATIONS

- A. Introduction of New Employees:
 - 1. Jim Liancianese, Grant Hoover, Justin Shepherd, Casper Violette, Public Works Department
 - Tanya Lilly, Administrative Specialist I
 - William Starkey II, Maintenance Worker, Storm Water
 - Daniel Simpkins, Truck Driver, Street Traffic Control
 - Lucas Kerns, Technician Trainee
 - 2. Jerry Heinline, Building Official (*Not present*)
 - Joey Penca, Jr., Building Inspector

B. Christiansburg High School - Town Council Partnership.

Student Government Association member, Sydney Johnson, reported to Council on upcoming high school events including an SGA-hosted dodgeball tournament - proceeds will be donated to a food bank; senior prom and awards program; and a summer drama day camp. New turf is being installed on the football field and a new eight-lane rubberized track is being installed. Miss Johnson is a junior and is involved in Beta Club, varsity soccer, National Honor Society, and Christiansburg Outreach. She plans to attend James Madison University after graduation.

C. Rescue Chief Joe Coyle to present on Rescue Squad operations and activities.

Rescue Chief Joe Coyle began his presentation by stating the rescue squad's mission and vision statement and calling attention to the squad's Heart Program, which provides agency-specific protocols for heart attack and cardiac arrest care. Improvements to the Heart Program have led to a patient survival rate of 31% and have resulted in the squad being awarded the 2016 Silver Award, 2017 Gold Plus Award, and 2018 Gold Plus Award from the American Heart Association. Chief Coyle reported on the squad's "Golden Heart Award" volunteer incentive program that had been recognized in the AHA newsletter as a best practices model, the placement of AED's in police and fire vehicles and Town facilities, the squad's active CPR program, volunteer membership, chaplain program, and the technologically advanced use of EMS ultrasound in identifying injuries. Chief Coyle thanked Council for the opportunity to speak and for its continued support of the rescue squad.

VII. COMMITTEE REPORTS

A. Councilmen Collins and Stipes - Street Committee report/recommendation on:

1. Subdivision Plat Showing New Lots 1 & 2 From a Portion of Tax Map Number 406-A-19 located near the Shoppers Way NW and North Franklin Street intersection.

Councilman Stipes reported on the request to divide one parcel into three to provide for the separation of Olive Garden, Panera Bread, and the powerstrip. The request conforms with the zoning ordinance and Councilman Stipes made a motion for approval, seconded by Councilman Collins. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.

VIII. DISCUSSION BY MAYOR AND COUNCIL

A. Council action on:

1. Ordinance to amend Chapter 24 "Nuisances" of the Christiansburg Town Code in regards to Article II – Regulation of Noise. The Public Hearing was held April 10, 2018.

Councilman Stipes expressed appreciation for the assistance of Dr. Casali in this matter and asked him to clarify his opinion regarding the use of the terminology "plainly audible" in the noise ordinance. Dr. Casali explained that the Planning Commission's first draft ordinance was solely based on "plainly audible", which, as he explained during the April 18 work session, caused concern due to hearing variances among people. His recommendation early in the draft process was to move to a quantitative, objective method, which would be achieved through the use of a decibel meter. The current proposed draft is based on an "either/or" approach that utilizes both decibel measurements and "plainly audible" determinations, which Dr. Casali supported as an appropriate and fair means of assessing

noise levels. Councilman Huppert said he was unfamiliar with the decibel system prior to the work session on April 18, and he expressed support for including both criteria in the noise ordinance. He then asked for clarification from Police Chief Sisson on the Police Department's position on enforcing the noise ordinance as a complaint-based enforcement. Police Chief Sisson commented that the department would take a reactive approach to enforcing the ordinance and would not proactively look for violations within the community. Councilman Collins expressed support for exempting church bells from the noise ordinance and Councilman Huppert and Councilman Bishop agreed. Town Attorney Fontana stated that the draft noise ordinance was written in a way to be objective and content neutral, which was necessary for enforcement and required by the Courts. As such, the ordinance cannot include exemptions, however, exemptions can be addressed through the CUP process.

Councilman Stipes said amendments had been written to the noise ordinance in response to public complaints, and that the draft process had showcased weaknesses in the current noise ordinance that needed to be addressed. The draft process included four public input sessions, expert input, and much deliberation, and the proposed draft was not intended to harm the business community. Councilman Stipes stated that the basis of the noise ordinance would remain unchanged, which was that private property owners had the right to enjoy their property without interference. He then expressed concern with exempting churches and recommended the Town assume the CUP application fee for businesses applying for noise related purposes up to August 1, 2018, which would include churches. Councilman Huppert echoed those comments and stated that he visited the Starlite and Fat Back Soul Shack over the weekend and did not want anyone to think this was a feud between citizens and Town Council. At Councilman Collins request, Planning Director Andrew Warren explained in detail the Conditional Use Permit process and the process to develop the proposed draft ordinance.

Councilwoman Sachs stated she was not in favor of the term "plainly audible" due to its subjective nature but supported the use of the decibel system in measuring noise levels. She then expressed her concerns that business owners could be held responsible for the actions of their patrons, per the draft ordinance; that businesses were most impacted by the draft noise ordinance and government should not impede business revenue; that the \$750 Conditional Use Permit fee was unfair to small businesses and she recommended assuming the fee for a period of time. She further requested that the wording in Section 42-8 of the draft ordinance regarding the Conditional Use Permit process be worded in a way that was easier to understand concerning the duration of a CUP. Councilwoman Sachs expressed opposition to the draft noise ordinance as currently written. Councilman Showalter expressed appreciation for the information and expert advice offered by Dr. Casali during the recent work session and for the diligence of the Planning Commission in studying this matter, and the input of the public. Councilman Showalter said the proposed draft ordinance would be beneficial to all property owners in Town and he expressed support for the draft as written, and for assuming the CUP application fee, one-time for established businesses.

Town Attorney Fontana commented that the need for "plainly audible" standards have been upheld in courts through out the country, and she explained that "plainly audible" applied when sound could be heard in someone's house, which would be considered a trespass.

Councilman Stipes made a motion to approve the draft noise ordinance as presented, and to assume a one-time CUP application fee for established businesses for applications pertaining to noise, until August 1, 2018. Councilman Showalter seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Nay; Showalter – Aye; Stipes – Aye.

2. Ordinance to amend Chapter 42 "Zoning" of the Christiansburg Town Code in regards to permitting a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Chapter 24 "Nuisances" Article II – Regulation of Noise by Conditional Use Permit in the A, MU-1, MU-2, B-1, B-2, B-3, I-1, and I-2 zoning districts. The Public Hearing was held April 10, 2018.

Councilman Stipes made a motion to approve the ordinance amendment as presented, seconded by Councilman Showalter. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Nay; Showalter – Aye; Stipes – Aye.

- B. Agreement to amend Montgomery Regional Solid Waste Authority Articles of Incorporation.

Councilman Showalter made a motion to approve the agreement to amend as presented, seconded by Councilman Bishop. Council voted on the motion as follows: voted as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.

- C. Resolution Authorizing Participation in the Virginia Department of Housing and Community Development (DHCD) Commercial District Affiliate Program.

Councilman Bishop made a motion to approve resolution, seconded by Councilwoman Sachs. Council voted on the motion as follows: voted as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.

- D. Consideration of attendance payment for New River Valley Regional Commission Dinner. (Showalter)

Councilman Showalter made a motion to approve payment for the attendance of Town Council, Town staff, and a guest to the NRV Regional Commission Dinner. Councilman Stipes seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.

- E. Consideration of \$2,500 funding for the Blacksburg Children's Museum. (Huppert)

Councilman Huppert reported that the Blacksburg Children's Museum was moving to the NRV Mall and he recommended approving the museum's request for \$2,500 contribution for the FY 2019. Financial Director Val Tweedie noted that the museum's contribution request was received prior to the deadline. Councilman Huppert asked Council to consider this request and be prepared to take action at the next regular Council meeting.

X. STAFF REPORTS

- A. Town Manager Wingfield:

- Reschedule the Public Hearing for the FY 2018-2019 Annual Budget and the water and sewer rate fees to May 22, 2018.
- Schedule a Public Hearing for a CUP request by Starlite Drive-In Theater for June 12, 2018.
- Assistant to the Town Manager Adam Carpenetti has requested to meet with Council members to discuss migrating Town email over to a new system. Council members will meet individually with Mr. Carpenetti.

- B. Town Attorney:

C. Other Staff:

XI. COUNCIL REPORTS

- A. Councilwoman Sachs reported on the recent Central Business Committee where the focus was on the closing and future redevelopment of Hickok Street and other matters pertaining to growth opportunities in the downtown area.
- B. Councilman Huppert reminded all that the annual Wine and Artisans event would be held downtown on April 27 from 5- 9 P.M.
- C. Councilman Stipes – No report
- D. Councilman Showalter – No report
- E. Councilman Bishop reported that the rescue squad recently held a celebration for honorary life members and would be retiring the Rescue1 truck, also commonly referred to as the Screamin' Demon, next week after 30 years of operation.
- F. Councilman Collins – No report
- G. Mayor Barber reiterated Councilman Huppert's comments regarding the Wine and Artisans event and reported on the farmers' market opening day on May 3, with fifteen confirmed vendors. All were reminded of the May 9th dedication ceremony for the Downtown Park Dedicated to Our Fallen Officers on College Street at 10:00 A.M., and of the child abuse prevention program to be held at the Montgomery County Courthouse on April 26th at 6:00 P.M.

XII. OTHER BUSINESS

XIII. ADJOURN

There being no further business to bring before Council, Mayor Barber adjourned the meeting at 8:54 P.M.

Michele Stipes, Clerk of Council

D. Michael Barber, Mayor