

**CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
MINUTES OF MAY 19, 2009 AT 7:30 P.M.**

A REGULAR MEETING OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT THE CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VA, ON MAY 19, 2009 AT 7:30 P.M.

COUNCIL MEMBERS PRESENT: Mayor Richard G. Ballengee; Vice-Mayor Bradford J. Stipes; D. Michael Barber; Ann H. Carter; D. Henry Showalter; James H. Vanhoozier; H. Earnest Wade. ABSENT: None.

ADMINISTRATION PRESENT: Town Manager R. Lance Terpenny; Assistant Town Manager Barry D. Helms; Town Clerk Michele M. Stipes; Town Planner Hair; Town Attorney Kai Memmer. ABSENT: None.

PLANNING COMMISSION MEMBERS PRESENT: Chairperson Simmons; Wayne Booth; Ann H. Carter; Steve Huppert. ABSENT: Mike Byrd; Dan Canada; Craig Moore.

MAYOR BALLENGEE stated there was a quorum present of Council Members and Planning Commission Members.

PLEDGE OF ALLEGIANCE.

JOINT PUBLIC HEARING

1. Rezoning request by Danny L. Neff for property at 1225 Stafford Drive (tax parcel 374 – ((1)) – 15) from R-1A Rural Residential to R-1 Single-Family Residential. The property contains 2.749 acres and is scheduled as Conservation - Limited Development in the Future Land Use Map of the Christiansburg Comprehensive Plan. Mr. Charles Kirk, Stafford Drive, spoke in favor of the rezoning request. Mr. John Travis, adjoining property owner, spoke in favor of the rezoning request; however, he said he is concerned with the existing sewer system for this area, fearing it may be inadequate to handle additional development. Mr. Travis requested that a study be performed on the existing sewer system to determine adequacy before approving additional development. Mr. Danny Neff said he has reviewed the plat indicating existing sewer lines and is prepared to extend those lines if necessary. Mrs. Crystal Neff, daughter-in-law of Danny Neff, spoke in favor of the rezoning, saying she and her husband will reside in the one house built on the property, if rezoned. Mr. Jim Overton, adjoining property owner, spoke in favor of the rezoning, noting current construction of a new neighborhood in this area of Stafford Drive.
2. Rezoning request by MEH, LLC for property at 2880 Roanoke Street (tax parcel 501 – ((1)) – 21) from R-1 Single-Family Residential to B-3 General Business with proffers. The property contains 0.704 acres and is scheduled as Mixed Use - Residential/Limited Business in the Future Land Use Map of the Christiansburg Comprehensive Plan. Mr. Alex Perkins, operator of Courtyard Storage, said he plans to buy the Roanoke Street property and renovate it to Town Code standards. Mr. Perkins submitted proffers to be included in this rezoning request. Mr. Perkins provided Council with a handout indicating his intentions for the property. Mr. Perkins said he understands the main concern with this property is stormwater management and he proffered to build a stormwater retention pond adequate for three times the property size. The facility will be tidy and he showed pictures of other storage facilities he owns and operates as an example. There will be on-site managers once the property is operating. Mr. Perkins said he spoke with Larry Martin, adjoining property owner, who is in favor of the request mainly because of the proffered tree buffer. Mr. Martin said Mr. Perkins has a good plan for the property and he supports the request. Mr. Douglas Sink, another adjoining property owner, spoke in favor of the request, saying he is encouraged by the planned upgrades.
3. Rezoning request by Albert Land, LP for property on the northern side of Peppers Ferry Road, N.W. at the end of Sage Lane (tax parcels 404 – ((A)) – 2 and 8) from A Agricultural to R-1 Single-Family Residential with proffers. The property contains 21.61 acres and is scheduled as Residential in the Future Land Use Map of the Christiansburg Comprehensive Plan.

Mr. Cord Hall disputed the applicant's right to bring this request back before Council stating that it is in violation of Chapter 30 of the *Christiansburg Town Code*. Mr. Hall read the code section and said he interprets it to say that the

applicant is prohibited from resubmitting this request to Council within one year of the applicant's recent rezoning request withdrawal. Mr. Hall said he doesn't believe the changes made to the request are sufficient enough to have changed the request. It is his belief that it is the same request and, therefore, is subject to the one year limitation. Town Attorney Memmer clarified that a portion of the ordinance was changed to read "...*same* request", from "...*similar* request", and therefore, the rezoning request is allowed because it is a different request. Mr. Hall argued the ordinance interpretation, and further disputed the proffers submitted by the applicant. He questioned the road width of Sage Lane and the appropriateness of considering it a "main thoroughfare". Mr. Hall provided a map indicating the roadway system in this area and said logic indicates that Sage Lane will be used as a main thoroughfare to the new subdivision, if rezoned.

Mr. Larry Waddell, Sage Lane, spoke in opposition to the request. He said that, even with the proffers, the basic concerns of the residents of Sage Lane have not been addressed and still remain; the biggest concern being the inadequacy of Sage Lane to handle increased traffic. He is also concerned that property value on Sage Lane will decrease if the cul-de-sac is opened to a through road. The condition of Route 114 is also a concern and he asked the Planning Commission and Town Council to deny the request.

Ms. Tracie Smith, Sage Lane, said she brought a signed petition to Council at the previous Public Hearing for rezoning of this property. The petition was in opposition to the request, and she believes it applies to this request, as well. She is concerned that the increase in traffic will create a hazardous condition for the residents of Sage Lane. She gave examples of traffic congestion seen one weekend during a community yard sale on Sage Lane. She asked Town Council to deny the request, saying it is not in the best interest of the residents of Sage Lane.

Mr. Richard White asked Council to deny the request in consideration of the hundreds of children who live in New River Village. Mr. Wayne Purcell, Sage Lane, spoke in opposition of the rezoning due to increased traffic through the neighborhood. He asked Council to consider that there are no streetlights or sidewalks, and that most driveways are single-car, forcing families to park cars along both sides of the street. He believes that to rezone will compromise the safety of the neighborhood.

Liz Edwards, Sage Lane, said she frequently walks the neighborhood and sees the dangers that exist without increased traffic. She believes that to approve the request is to compromise the safety of the neighborhood and those who live there. She asked that Town Council deny the request out of consideration for the safety of those living along Sage Lane. She asked that another access route be found before development is allowed on this property. Ms. Edwards said she feels her and her neighbors' concerns about safety haven't been addressed.

Mr. Basel Saleh, Sage Lane, said he is opposed to development of the property on principle. He said there are plenty of existing, available, affordable homes in Christiansburg, and as a economist, can find no logical reason to develop this property. He also noted that Belview school, the elementary school that serves this area, is at maximum capacity. Mr. Saleh said there are things more important to quality of life than continued development.

Mr. Steve Hall who has grandchildren that live on Sage Lane said he is appalled that this request continues to come before Council. He asked if homebuyers were informed at the time of purchase that the cul-de-sac was temporary. Mr. Hall noted that Sage Lane is so narrow that school buses will not drive down the road, but instead drops children off at the entrance to Sage Lane and the children must walk home. He reminded Council that there are no sidewalks for the children to walk on. He believes that opening Sage Lane as a thoroughfare will create a dangerous situation for those living on Sage Lane. Mr. Hall said there needs to come a time when a final decision is made on this matter and he asked that that time be now.

Ms. Shireen Parsons, Miller Street, said it is clear that it is the responsibility of Town Council to protect the health and safety of the residents of Christiansburg, and that the mandates are equally clear. She questioned who determines safety. She asked that Town Council deny this rezoning request.

Mr. Steve Semones of Balzer and Associates spoke on behalf of Robert Fralin, developer. Mr. Semones reminded Council that this request was first brought before them in 2007, but was denied because of Route 114 traffic concerns. The request was brought back a second time, one year later when Route 114 widening plans were more definitive. The request was withdrawn by the applicant because of residents' concerns. The developer revised his plan with proffers to address the spoken concerns by residents of Sage Lane. Mr. Fralin understands that a new connector road is needed and has been in talks with a nearby property owner for possible road usage. Securing a different access road will take time and Mr. Fralin has proffered that he will limit construction to twenty homes until a main access road has been developed. Mr. Semones also reminded Council that the right-of-way has always been there to extend Sage Lane. The cul-de-sac was temporary. He also noted that Sage Lane is built to Town standards. Mr. Semones said that Mr. Fralin has no desire to create a

dangerous situation and does not discount the residents' concerns. Mr. Fralin has offered his proffers as a compromise to the previously voiced concerns.

Mr. Dexter Albert and Mrs. Lorrie Albert, partial owners of Albert Lane, both said Albert Lane is a private road and are opposed to it being opened up as a public street.

Ms. Tina Kassee, Sage Lane, said she is opposed to the request for the numerous reasons already stated by others.

Mr. David Lawless said he doesn't live on Sage Lane, but walks his dog through the New River Village neighborhood. He said he believes traffic will be a main concern if Sage Lane is opened as a throughway to the property; he asked that a second access point be secured before Town Council allows this rezoning.

Town Manager Terpenny noted that the proffers submitted by the developer are binding and the rezoning is based on the proffers. This would be a conditional zoning and the Town would enforce the proffers. Further, Town Manager Terpenny commented that Sage Lane is built to Town and State standards with fifty-foot right-of-way, and thirty-foot pavement.

Councilman Barber asked Mr. Fralin if he would permanently close the Sage Lane throughway once the proffered twenty homes are developed. Mr. Fralin replied that if the Town permits it, he would close Sage Lane to the development upon completion of the proffered twenty homes. This exchange generated numerous comments within the audience. Mr. Cord Hall commented that he would have no objection to the rezoning request, if the proffers are adhered to, and Mr. Fralin does indeed close Sage Lane to the development at the completion of the first twenty homes. He also pointed out that there must be another usable access point to the property since it is proffered that no construction vehicles will use Sage Lane during development of the property. Mr. Fralin noted that the access point construction vehicles will use is a private right-of-way and doesn't apply as a Town (public) road.

Ms. Ann Hess who lives in a neighborhood across from New River Village, said there is a real need in this area for a park, a place for children to play, and she asked Town Council to look for park space in this section of Town. Ms. Hess pointed out that open space is diminishing and, often, dedicated greenspace is nothing more than unusable land. Because of this, she suggested Town Council revisit recreation planning for the entire Town. Mr. Fralin noted that a neighborhood park is planned for the development proposed in this request.

Ms. Terry Ellen Carter, Wooden Shoe Court, commented that it is important to secure a construction completion date from the developer.

PUBLIC HEARING

1. Fiscal Year 2009 – 2010 Budget – Proposed fee increases. Mr. John Travis, a local developer, commented on the proposed subcontractor fees included in the budget. Mr. Travis said most subcontractors are small companies, or individuals, and imposing a Thirty Dollar (\$30) fee may create a hardship for some subcontractors. Mr. Travis suggested increasing the building permit fees instead. Mr. Wesley Adkinson of Lucky Lane commented on the poor economy and resulting job losses and vacant homes. Mr. Adkinson said he would rather see items cut from the budget, if necessary, rather than increase fees to generate revenue.

REGULAR MEETING

MAYOR BALLENGEE called the Regular Meeting of Council to order and asked if there were any additions or corrections to the Minutes of May 5, 2009. There being none, the minutes were approved as presented.

CITIZEN HEARINGS:

1. Planning Commission recommendations on:
 - a. Rezoning request by Howard M. Thornton for property at 520 and 540 Depot Street, N.E. (tax parcel 497 – ((A)) – 40) from I-2 General Industrial to B-3 General Business. The property proposed for rezoning is approximately 2.409 acres and is scheduled as Commercial in the Future Land Use Map of the Christiansburg Comprehensive Plan. Secretary Terpenny read the Planning Commission resolution recommending Town Council approve the rezoning as requested, with proffers. The Planning Commission vote was unanimous by those present.
 - b. A Conditional Use Permit request by L and R Burch Properties, LLC for property at 2000 Roanoke Street (tax parcel 499 – ((A)) – 14) for a flea market and auction house and amendment of a Conditional Use Permit approval for an auto

auction in the B-3 General Business District. Secretary Terpenny read the Planning Commission resolution recommending Town Council issue the Conditional Use Permit and the Conditional Use Permit amendment with thirteen (13) conditions. A copy of the Conditional Use Permit and the amended Conditional Use Permit are attached herewith and made a part of these minutes. The Planning Commission vote was four ayes; one nay.

- c. Capital Improvement Plan for Fiscal Year 2009 – 2010. Secretary Terpenny read a statement from Planning Commission Chairperson Simmons reporting that the Planning Commission has reviewed the Capital Improvements Plan and recommends Town Council's approval. A copy of the recommendation is attached herewith and made a part of these minutes.

2. Citizen Comments:

- a. Mr. Cline Hall, 640 Cameo Court, reported to Council that heavy rains received early Friday morning (5/15) resulted in a sewer back up in the sewer lines serving his home and several of his neighbors' homes. Raw sewage flooded the basements of several homes on Cameo Court causing significant damage to the homes. Mr. Hall said he believes the back up was caused by too much water going into the sewer and the back up from the nearby creek. Mr. Hall said the Town was made aware of the potential for problems in the past after less severe rain storms, and an inspection of the area on Monday, by Town crews, determined that the nearby manhole cover was not bolted in place, as required, and that the manhole sits too far below grade. Mr. Hall said the continued development in this area has resulted in inadequacies within the sewer system. Mr. Hall said that his private insurance will not cover the damage caused by the sewer back up. He is asking the Town for three things: 1) Add additional capacity to the sewer system and more height to manhole so that surface water cannot go into the sewer lines; 2) Add more capacity to the drainage culverts under Independence Blvd so that flooding will not happen again; 3) He wants the Town, or its insurance, to pay for the remediation and restoration of his and his neighbors' homes since the Town is responsible having been advised of the situation several times, and having failed to remedy the problem. A copy of Mr. Hall's letter to the Town is submitted herewith and made a part of these minutes. Mayor Ballengee commented that numerous problems occurred throughout Town during Friday morning's rain storm. Mayor Ballengee informed Mr. Hall that if he believes the Town is responsible for the damage, he can file a claim with the Town's insurance company. Town Manager Terpenny will provide him with the appropriate insurance information. The sewer line back up also caused significant damage to the Cameo Court homes of Bill and Patty Cockey, and Jennifer Whitmore. It was noted by a resident of Cameo Court that DEQ would test for sewage in the nearby creek in one week.
- b. Ms. Carol Lindstrom asked Council to carefully study the rezoning request by Howard M. Thornton, for property at 520 and 540 Depot Street, before taking action. Ms. Lindstrom reported that the property is littered with filth and debris; photos of which have been posted on her blog site. Ms. Lindstrom said it is her observation that enforcement of issues is a problem within Town, and she took issue with the wording in Town ordinances authorizing the Town Manager to make enforcement decisions over Town Council and Town citizens. She also informed Council it should be thankful that the major rain storm hit during the night and not during peak traffic hours.
- c. Ms. Meghan Dorsett, owner of Cambria Depot and Cambria Emporium said her properties obtained One Hundred Fifty Thousand Dollars (\$150,000) worth of damage during the Friday morning rain storm. Insurance will cover damage to the building, but not lost merchandise. Ms. Dorsett said, based on her professional background, she is able to identify several existing problems that contributed to the flooding. First, an inadequate storm water system. Second, the slope/build up of Cambria Street with center concrete barrier directs storm run-off to the front entrance of the Emporium. Third, the railroad dumpster was not secured and turned over during the storm, blocking the storm water drain (it was noted that the railroad dumpster was placed at the direction of Waste Management, not the Town). Ms. Dorsett asked Council to do a comprehensive study of the stormwater system in Cambria, and to put in curb and guttering along Cambria Street. She also expressed her concern with Council's recent approval for construction of a new neighborhood in Cambria that will tap into the existing stormwater system. Mayor Ballengee commented that during the rain storm in the early hours of May 15, portions of the Town received over six inches of rain in a three hour period. Several areas in Town received significant damage as a result of this storm.
- d. Mr. Harold Shelton spoke in opposition to providing funding for the bus expansion in the FY 09-10 budget. He provided various figures to support his belief that the expansion could end up requiring significant funding from the Town in years to come, and believes the Town's reserve funds should not be used to initiate the expansion.

- e. Ms. Carol Robinson and Ms. Vanessa Morrison, Cambria Emporium dealers, both commented on the flooding to the Emporium Friday afternoon as a result of the significant rain storm early Friday morning. According to Ms. Robinson and Ms. Morrison, the Emporium has experienced problems with stormwater run-off since upgrades were made to Cambria Street. The road divider placed near the Emporium visibly directs stormwater run-off to the front entrance of the historic building. There was significant damage to the building and merchandise during the Friday morning rain storm.
- f. Mr. Wesley Atkinson, Lucky Lane, spoke in opposition to providing funding for the expansion of the bus system in Christiansburg. Mr. Atkinson said he believes that Virginia Tech students will be the ones who benefit from this service, and that the bus expansion is not necessary for Christiansburg residents. He asked Town Council to consider cutting expenses, rather than adding to them, and suggested expenses that could be cut within Town departments.
- g. Ms. Shireen Parsons of Christiansburg, spoke in support of the proposed expansion of the bus system. She said the residents of Christiansburg need and deserve efficient, affordable mass transit to Blacksburg. She believes this type of service should be funded by the Town so it is affordable to its residents. The bus system is also a great way to "go green" since toxins from one bus do not amount to the level of toxins generated by numerous commuter vehicles. Ms. Parsons said this bus system expansion is about offering Christiansburg citizens what is available to others in most localities. She suggested funding the system on a one to two year trial basis. Ms. Carol Lindstrom, commented that the bus system expansion is a must for Christiansburg and has the potential to positively impact Town businesses and Town events.

DISCUSSIONS BY MAYOR AND COUNCIL MEMBERS:

- 1. Council action on:
 - a. Rezoning request by Howard M. Thornton for property at 520 and 540 Depot Street, N.E. (tax parcel 497 (A)) – 40 from I-2 General Industrial to B-3 General Business. The property proposed for rezoning is approximately 2.409 acres and is scheduled as Commercial in the Future Land Use Map of the Christiansburg Comprehensive Plan. Councilman Stipes made a motion to accept the Planning Commission's recommendation to approve the rezoning with the proffers submitted by Mr. Thornton. Councilman Wade seconded the motion and Council voted as follows: AYES: Carter, Showalter, Stipes, Vanhoozier, Wade. NAYS: Barber.
 - b. A Conditional Use Permit request by L and R Burch Properties, LLC for property at 2000 Roanoke Street (tax parcel 499 – ((A)) – 14) for a flea market and auction house and amendment of a Conditional Use Permit approval for an auto auction in the B-3 General Business District. Councilman Wade made a motion to issue the Conditional Use Permit and approve the amended Conditional Use Permit, seconded by Councilman Barber. Councilwoman Carter commented that she voted to deny the CUP amendment during the Planning Commission meeting. Her concern is with the request to remove the condition requiring that temporary "No Parking" signs be placed along Hubble Drive during auction hours. According to Mr. Burch, a police officer informed him that placement of temporary signs is illegal; however, Councilwoman Carter, noting a letter the Town received from Hubble Lighting, is concerned that the Town will not be honoring Hubble Lighting's traffic concerns if "no parking" is not enforced during auction hours. Councilwoman Carter said she is not opposed to the auto auctions or the requested extended hours of operation, but if placement of "No Parking" signs along Hubble Drive during auction hours is not included as a condition of the permit, then she is unable to support the request. After Council discussion, Councilman Wade amended his motion to approve to include the condition requiring placement of temporary "No Parking" signs along Hubble Drive during auction hours. Councilman Barber seconded the amended motion and Council voted as follows: AYES: Barber, Carter, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.
 - c. Proposed fee increases for Fiscal Year 2009 – 2010. Councilman Barber made a motion to approve the proposed fee increases for the Fiscal Year 2009 – 2010, seconded by Councilwoman Carter. Town Clerk Stipes polled Council on the motion as follows: Barber – AYE; Carter – AYE; Showalter – AYE; Stipes – AYE; Vanhoozier – AYE; Wade – AYE.
 - d. Fiscal Year 2009 -2010 Budget – Second Reading. Councilman Barber made a motion to approve the Fiscal Year 2009 – 2010 Budget as proposed, seconded by Councilman Stipes. Councilman Wade asked if the bus expansion funding is automatically approved if the budget is approved. Manager Terpenny replied that yes, if the budget is approved, funding for the bus expansion would also be approved, since it is included in the budget. Councilman Wade has previously expressed his concerns with the One Hundred Sixty-Three Thousand Dollars (\$163,000) included in the budget for expansion of the bus service in Christiansburg, since the bus expansion has not been approved by Council.

Councilman Showalter said he does not agree with employee step increases being paid with Town reserves and suggested freezing the step increases until the budget can be balanced. He said he is unable to support the budget as presented. Councilman Vanhoozier said he believes the Town has a moral obligation to provide step increases since it is inferred at the time of hire. Councilman Vanhoozier noted that the step increases for the budget year amount to approximately One Hundred Thousand Dollars (\$100,000). Councilman Barber agreed with Councilman Vanhoozier's comments. Councilwoman Carter commented that salaries may be an area to look at next year, if the economy doesn't improve, but supports leaving the step increases in the current proposed budget. Town Clerk Stipes polled Council on the motion as follows: Barber – AYE; Carter – AYE; Showalter – NAY; Stipes – AYE; Vanhoozier – AYE; Wade – NAY.

2. New River Valley Planning District Commission – Reappointment. Councilwoman Carter made a motion to reappoint Mr. Scott Weaver to serve another four (4) year term on the New River Valley Planning District Commission. Councilman Showalter seconded the motion and Council voted on the motion as follows: AYES: Barber, Carter, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.
3. Bicycle Safety Equipment Ordinance. Town Attorney Memmer provided Council with a copy of the proposed Bicycle Safety Equipment Ordinance, drafted at Council's request. The ordinance requires that individuals up to the age of fourteen must wear a helmet, on their head, when riding a bicycle, or any other wheeled equipment, on public sidewalks, streets, pathways, etc. The helmet must meet Product Safety Commission standards. Councilman Barber made a motion to adopt the Bicycle Safety Equipment Ordinance, effective July 1, 2009, and to provide a "warning period" of thirty days during initial enforcement. Councilman Wade seconded the motion and Town Clerk Stipes polled Council as follows: Barber – AYE; Carter – AYE; Showalter – AYE; Stipes – AYE; Vanhoozier – AYE; Wade - AYE. Mayor Ballengee turned this matter over to Police Chief Sisson for advertisement and enforcement. A copy of the ordinance is attached herewith and made a part of these minutes.

TOWN MANAGER REPORTS:

TOWN MANAGER TERPENNY noted that each Councilmember was provided a copy of the sign ordinance amendment addressing electronic signs. He asked that each member review the amendment and be prepared to discuss at a future date.

AQUATIC CENTER UPDATE – Town Manager Terpenny reported that the interior block walls are built up from deck level to the second floor; steel will soon be set for the second floor; window installation continues; mechanical system installation continues; and construction of decking around the pools has begun.

JOINT 911 SYSTEM – Manager Terpenny reported that discussions continue between Christiansburg, Montgomery County, Blacksburg, and Virginia Tech for establishment of a joint 911 system, and the decision has been made to move forward with a feasibility study. An Authority will need to be formed if the localities proceed with the joint system. A meeting is being coordinated between the localities for later this summer.

ADJOURN:

There being no further business to bring before Council the meeting was adjourned at 10:38 P.M.

Michele M. Stipes, Clerk of Council

Richard G. Ballengee, Mayor