

**CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
MINUTES OF OCTOBER 6, 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 OCTOBER 6, 2009 AT 7:30 P.M.

COUNCIL MEMBERS PRESENT: Vice-Mayor Ann H. Carter; Bradford J. Stipes; D. Michael Barber; D. Henry Showalter; James H. Vanhoozier; H. Earnest Wade. ABSENT: Mayor Richard G. Ballengee.

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

PLANNING COMMISSION MEMBERS PRESENT: Wayne Booth; Mike Byrd; Ann H. Carter; Kevin Conner; Steve Huppert; Craig Moore. ABSENT: Vacant.

VICE-MAYOR CARTER stated there was a quorum present of Council Members and Planning Commission Members.

PLEDGE OF ALLEGIANCE.

JOINT PUBLIC HEARING

1. A rezoning request with proffers by F & B Land, LP for property on the southern side of Diana Drive (a portion of tax parcels 525-((A))-4, 4C, 4D, 4E, 4F, 4G and 4H) from A Agricultural to R-3 Multi-Family Residential. The property contains approximately 6.47 acres and is scheduled as Residential Transition in the future policy map of the Montgomery County Comprehensive Plan. Mr. Steve Semones of Balzer and Associates spoke on behalf of the applicant and submitted proffers to be considered with this request. A copy of the proffers is attached herewith. Mr. Semones referred to the zoning map and presented a concept plan indicating the development of senior apartments in the Kensington Subdivision. This property is surrounded by various zoning districts including residential and business. Maximum density of the subdivision would be eight units per acre. A construction road onto the property has been built and construction traffic will not be permitted to use Grandview Estate roads. Thirty feet of landscape buffer is planned, which is more than the required minimum. According to Mr. Semones, the occupants would be restricted to 55 years of age and older. All units would be rental.

Mr. Mike Miller addressed his concerns to Council regarding the proposed density and the additional traffic new development will create. Living in this area, he is aware of only two entrances into the large neighborhood, which is made up of several subdivisions. One entrance leads onto Mudpike Road and the other onto Radford Road. Mr. Miller expressed his concern with the impact a high density development will have on his neighboring low density neighborhood. A portion of the property in this request is located in Montgomery County, and Mr. Miller is concerned that the County may not have considered safety issues when it rezoned a portion of the property to R-3 Multi-Family Residential.

Ms. Carol Lindstrom of Depot Street suggested that the developer research the legality of restricting the age of tenants that would occupy the units.

Mr. Ray Thurman said he recently purchased a home on Diana Drive and is now concerned with poor lighting in the neighborhood and increased traffic that new development will bring. Mr. Thurman supports development, but believes the proposed density is too high for this area. Water pressure is also a concern as it seems to be inadequate at times.

Mr. Steve Semones responded that a traffic study was done on the property in this request and there are five access routes onto the site. Bishop Road and Diana Drive will be paved within the next twelve months or so. Mr. Semones said that Fair Housing Standards have been reviewed and the developer is comfortable with the legality of tenant age restriction for the units. Mr. Semones noted the proposed landscape buffer that will provide a division between the low density and high density developments.

2. A Conditional Use Permit request by Sabrina Davidson-Ratcliffe (agent for property owner Thelma Musselman) for property at 762 Tower Road (tax parcel 531-((A))-11) for a family day home serving six through twelve children in the R-1

Single-Family Residential District. Ms. Sabrina Davidson-Ratliffe explained to Council that she needs to be issued a Conditional Use Permit in order to obtain a Business License for her home daycare. Ms. Davidson-Ratliffe currently provides child care for five children and employs two full-time employees and one part-time employee. She cares for no infants, but may expand her business to include two or three more children for a total of seven or eight children. She and her employees have had criminal background checks and are within State Guidelines for operation. She provides child care Monday through Friday from 7:30 A.M. to 5:30 P.M.

Town Manager Terpenney noted that he has received two letters from Ms. Ratcliffe's neighborhood in support of the request. Ms. Nicole Martin of Dee Dee Drive said her property abuts the Ratcliffe's property and she has several concerns about this request. Traffic and noise concern her, as well as the indication from Ms. Ratcliffe's website that she is currently in violation by keeping more than five children. Also, according to Ms. Martin, Ms. Ratcliffe did not obtain building permits for the numerous storage buildings on her property. Ms. Martin said she doesn't want a daycare in her back yard.

Ms. Lana Criner of Dee Dee Drive voiced numerous complaints against Ms. Davidson-Ratliffe, including the fact that she only rents the property and often burns trash and debris on the property. Ms. Criner believes the out-buildings on the property are in violation of setback requirements and she doesn't think building permits were issued for the buildings. Ms. Criner is concerned with repeated non-compliance noting the pictures on Ms. Ratcliffe's website indicating more than the allowable five children. She is also concerned with noise, traffic, and possible decrease in property values if this request is approved.

Mr. Terry Ratcliffe, Sabrina's husband, explained that he only burned brush during the clearing of the property in an effort to clean up the property. And, before burning, he obtained permission from Montgomery County. Mr. Ratcliffe said he believes privacy is the real issue with the neighbors, since the property brush barriers have been cleared away. Ms. Ratcliffe explained that the pictures posted on her website include her employees' children, who are not required by law to be included in the number of allowable children. Ms. Ratcliffe said her certification from the Department of Social Services is posted showing violations, which indicates only one violation in regards to a child whose vaccinations were not up to date.

PUBLIC HEARING

1. Zoning Permit request by Boxley Concrete Products (acting as agent for property owner Shah Development, LLC) for property on the southern side of Prospect Drive (tax parcel 500-((A))-5U) for a concrete ready mix batch plant in the I-2 General Industrial District. Manager Terpenney explained that this business is permitted in the I-2 General Industrial District, but that the ordinance allows that a Public Hearing can be held for a zoning permit if the business is deemed to possibly have an adverse impact on the area. Town Manager Terpenney said he believes a Public Hearing is appropriate for this request.

Mr. Larry Bullock, Vice-President for Boxley Concrete Products (Boxley), explained that the company wants to establish a concrete plant on a five acre lot in the Christiansburg Industrial Park (CIP). Mr. Bullock referred to a CIP map and photos of Boxley's existing branches. Representatives from Boxley have spent the last several weeks meeting with existing businesses in the CIP, and with Town Officials. Mr. Bullock said the representatives were well received. Mr. Bullock explained that Boxley is a clean operation that uses sustainable business practices, and is committed to being a positive and contributing member of each community in which it is located. The company produces high quality concrete and will create eight new jobs. The CIP is a convenient location due to its proximity to Interstate 81. The company uses a state-of-the-art dust collection system that collects 99.9% of the dust at the site, with minimal energy consumption. Operation hours would be 7:00 a.m. to 5:00 p.m. Monday through Friday, with twelve to fifteen concrete trucks in use each day. Trucks and equipment are washed with recycled water. The weight of the loaded cement trucks is approximately 65,000 pounds, which can be compared to an 80,000 pound tanker. Mr. Bullock said the company is well known and respected in Virginia and Nationally.

Mr. Timothy Richie said he recently bought a lot in the Walnut Creek subdivision which adjoins the CIP. Mr. Richie said it is his understanding that the CIP is reserved for light-industrial and a concrete plant is not an appropriate business for this area. Heavy traffic along Roanoke Street is a concern of his, and he is concerned that there could be serious traffic concerns if cement trucks are pulling onto Roanoke Street throughout the day.

Mr. Michael Abraham spoke in opposition to the request as the owner of a shell building in the CIP that adjoins the site in this request. He currently has six tenants in his building that will be directly impacted by the concrete plant. Mr. Abraham believes in free enterprise, but also that the interest of tenants and neighbors is important. Mr. Abraham visited Boxley's Roanoke site and agrees that the company is clean and environmentally responsible. However, the printing equipment

belonging to his tenant, Wordsprint, is extremely sensitive and the dust from a concrete plant would most likely force the business to relocate. Mr. Abraham disagreed that the CIP provides a safe access road for cement trucks.

The owner of an auto painting business in the CIP said he is concerned about dust that would be generated by a concrete plant. Any dust would have a big impact on his ability to provide a quality paint job and he would be forced to relocate if Boxley is allowed.

The owner of a computerized machine shop in the CIP said he has the same concerns with the impact of dust on his highly sensitive equipment. His business does not have air conditioning and he relies on fans and open windows for air circulation and ventilation. If the concrete plant is allowed, it will force him to relocate his business.

Air Gas of America supports Boxley's request to locate in the CIP. Their only concern is with the high traffic volume on Roanoke Street and the impact of adding cement trucks.

Mr. James Stewart of Brilliant Drive submitted a petition of two hundred twenty-five signatures opposing Boxley Concrete Product's request to locate in the CIP. The concerns associated with the request are: 1) Environmental due to dust, traffic, and noise and the impact of such on neighboring restaurants and homes. 2) Possibility of unusual hours of operation creating disturbances for nearby restaurants and homes. 3) The economy and reduced demand for concrete products. Two local concrete plants, Konorock and Marshall, are operating on reduced hours and have experienced recent employee lay-offs. A third concrete plant will further dilute the concrete demand. Mr. Stewart said it is important to note that Boxley intends to use materials from Roanoke rather than the New River Valley. 4) Traffic safety along Roanoke Street and the roads within the CIP.

Mr. Patrick Lloyd, recently of Montgomery County, said he lived many years in Christiansburg and he and his wife are life members of the Christiansburg Rescue Squad. Mr. Lloyd is also an employee of Marshall Concrete and is currently on thirty-two hour week restriction due to the reduced demand for concrete and concrete products. He is concerned that an additional concrete plant will over-saturate the market to the detriment of current concrete employees. Mr. Lloyd asked Council to deny the request.

Mr. Dan Canada of Somerset Street said he has been in the concrete business for over twenty-five years. Mr. Canada said that efforts to run a clean concrete business is not unusual since the Environmental Protection Agency, and State Agencies, require that concrete plants meet certain levels of emissions. Mr. Canada agreed that Boxley does operate in a clean manner as is required. He stressed that the request is a matter of common sense: Noise will be an issue for nearby homes and businesses; dust will be an issue for nearby homes and businesses. Mr. Canada said he is concerned for the futures of the employees of area concrete plants if Boxley's request is approved. Mr. Canada said it is important for Council to consider those in the community who will be directly impacted by this decision. He asked Council to deny the request.

Mr. John Siebold, while not a resident of Christiansburg, owns and operates a business in the CIP. Mr. Siebold said he is greatly concerned about the potential for dust, which would be damaging to his business equipment; and he has no doubt a concrete plant will generate dust that will impact neighboring businesses. Mr. Siebold said business has been good in Christiansburg and he has a good working relationship with the Town; however, the impact of a concrete plant in the CIP would force him to relocate his business elsewhere. He simply would have no other choice.

Ms. Tacy Newell-Foutz said before moving to Christiansburg she lived near a concrete plant in Boutetourt and the plant did not decrease the values of neighboring homes. She said the focus needs to be on zoning issues and not "business competition".

Mr. Kenny Owens, Mr. Steve Wright, and Mr. George Coon individually urged Council to deny Boxley's request out of consideration of the negative impact the business will have on existing businesses in the CIP, and on nearby homes and restaurants, and the adverse impact it will have on existing local concrete plants and those depending on those plants for their livelihood.

Ms. Carol Lindstrom acknowledged that there is an existing traffic concern along Roanoke Street that needs to be resolved and that dust could be a concern for businesses with specialized equipment. Ms. Lindstrom said that, with that in mind, this might be a good time to review usage guidelines within the CIP.

Mr. Bullock of Boxley clarified that Boxley would buy its raw materials from the local quarry in support of the community. The company would support Christiansburg and would be sensitive to its neighbors.

Town Manager Terpenney said two letters were received regarding this request. One letter is from Mr. Michael Kegel in support of Boxley Concrete Products and its request to locate in Christiansburg. Mr. Kegel owns a business neighboring Boxley in Roanoke, and he said in the letter that Boxley is a great corporate neighbor that operates a clean plant. The other letter is from Mr. David Stallings in opposition of the request.

REGULAR MEETING

VICE-MAYOR CARTER acknowledged the death of prominent Christiansburg resident, Wilbur Page, on September 19, 2009. Mr. Page served on Town Council for twenty-two years and on the Planning Commission for fifteen years. Vice-Mayor Carter, on behalf of the Town of Christiansburg, sent condolences to the Page family.

VICE-MAYOR CARTER called the Regular Meeting of Council to order and asked if there were any additions or corrections to the Minutes of August 14 – 16 and September 8, 2009 (Retreat); the Minutes of August 17, 2009 (Joint Work Session) and the Minutes of September 15, 2009 (Regular Meeting). Councilman Barber made a motion to approve the four sets of Minutes as presented, seconded by Councilman Wade. Council voted on the motion as follows: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.

ON RECOMMENDATION OF VICE-MAYOR CARTER, Councilman Barber made a motion to amend tonight's agenda to reflect the following changes, seconded by Councilman Showalter:

- 1) During the Closed Meeting request, the industrial park prospect is for the Falling Branch Industrial Park, not the Christiansburg Industrial Park.
- 2) To include a discussion regarding total cost of the aquatic center.

Council voted on the motion as follows: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.

CITIZEN HEARINGS:

1. Citizen's Comments:
 - a. Lisa Lucas Gardner addressed Council with her concerns about abandoned and unregistered vehicles in town. Ms. Gardner believes there are others with this same concern in town and suggested setting up a meeting to address the matter. Also, she voiced her opposition to some of the proposed operational changes to Sunset Cemetery. Ms. Gardner said she works in the health care system and believes many won't be able to afford the proposed higher fees. She suggested the town use a sliding fee schedule, but reminded Council that the cemetery is a town cemetery and shouldn't be viewed as a profitable business.
 - b. Mr. Eddie Trump, on behalf of New River Valley Funeral Directors; Mr. Ross Blunt, Funeral Director for McCoy Funeral Home in Blacksburg; and Mr. Dan Devillbiss of Devillbiss Funeral Home in Radford, each spoke in opposition to some of the changes proposed at the September 15, 2009 Town Council meeting by the Cemetery Committee in reference to the business organization of Sunset Cemetery. Those representing New River Valley funeral homes specifically addressed the suggestion that funeral homes contract with the Town agreeing to be responsible for fees associated with opening/closing graves. Funeral Homes typically are not responsible for this type of service and the gentlemen offered to discuss this matter with the Cemetery Committee. Ms. Shannon Sherman, Ms. Mary Huff, Ms. Nancy Showalter, Ms. Jean Trump, and others, spoke in opposition to the recommendation from the Cemetery Committee at the last Town Council meeting that flowers not be permitted at grave sites during mowing season unless they are attached to the headstone. The reason for this recommendation is out of consideration of cemetery maintenance crews who must pick up flowers while mowing. Those who spoke also spoke in opposition to the proposed fee increases for holiday and weekend burials. Councilman Stipes said that when making these recommendations, the Cemetery Committee had no intentions of being insensitive to families, or to turn the cemetery into a profitable business. The Cemetery Committee is not familiar with the operations of a cemetery and wants feedback from members of the community on what's important to them.

DISCUSSIONS BY MAYOR AND COUNCIL MEMBERS:

1. Council Action on:
 - a. Zoning Permit request by Boxley Concrete Products (acting as agent for property owner Shah Development, LLC) for property on the southern side of Prospect Drive (tax parcel 500-((A))-5U) for a concrete ready mix batch plant in the I-2

General Industrial District. Councilman Wade made a motion to deny the request, seconded by Councilman Barber. Councilman Wade commented that he previously met with the owner of Boxley Concrete Products and was encouraged by the idea of the company locating in Christiansburg. However, in light of the statements heard, and letters received, Councilman Wade said he feels a strong sense of obligation to the Town's existing businesses and employees. Councilman Stipes commended Mr. Bullock for his efforts in meeting with each Councilmember prior to this Public Hearing. Councilman Stipes stated that when he met with Mr. Bullock he stressed that he would strongly consider the opinions of neighboring businesses and those directly affected by the decision. Councilman Stipes said he believes that 90% of economic focus should be on existing businesses, and in light of the comments heard and letters received from existing businesses in the Christiansburg Industrial Park, he is unable to support the request. Councilman Barber agreed with Stipes commenting that it was clear to him that several existing businesses in the Industrial Park may be forced to shut down if a concrete plant is permitted in the Industrial Park, due to the potential damage from dust to expensive and fragile equipment. Councilman Vanhoozier commented that he too is unable to ignore the concerns of the existing Industrial Park business, noting the submitted petition of opposition with over 200 signatures, and numerous letters of opposition. Councilman Vanhoozier said he was elected to represent the citizens of Christiansburg and he wants to be a good steward. Councilman Vanhoozier commented that traffic issues noted during the Public Hearing are a concern for him, as well. Councilman Showalter asked if there were any restricting covenants for the Industrial Park that would disallow a concrete plant. Manager Terpenney replied that there are no "restricting" covenants in place, but the Town uses close scrutiny with businesses wanting to locate in the Industrial Park. Zoning Guidelines are used, but provide that an "allowable" business can be denied if deemed to potentially have an adverse affect on neighboring property owners. Councilman Showalter commented that Boxley Concrete Products is a good company and is an ideal business for the Christiansburg Industrial Park. Each Council Member agreed that Boxley Concrete Products is an upstanding business and the integrity of the company is not at issue. Vice-Mayor Carter called for a poll of Council on the motion and second to deny the request. Town Clerk Stipes polled Council as follows: Barber – AYE; Showalter – NAY; Stipes – AYE; Vanhoozier – AYE; Wade – AYE. The request is denied. Mr. Bullock thanked Town Council for its time and consideration.

3. RECOMMENDATION FOR REAPPOINTMENT TO THE BOARD OF ZONING APPEALS FOR JAMES STEWART. On motion by Councilman Vanhoozier, seconded by Councilman Wade, it was resolved to recommend and request the reappointment by the Circuit Court of Montgomery County, Virginia, of James Stewart to the Board of Zoning Appeals of said Town for a five year term beginning September 1, 2009 and expiring August 31, 2014. Council voted on the motion as follows: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.
4. VAL TWEEDIE, FINANCE DIRECTOR/TREASURER – Ms. Val Tweedie presented Council with a written progress report from the Treasurer's Department regarding credit card/debit card processing. In her report, Ms. Tweedy has estimated processing fees to be approximately ten thousand dollars (\$10,000) for the remainder of fiscal year 2009 – 2010, if the card service is implemented before the onset of tax collections. Upon Council approval, the system can be operational within 30 – 45 days. After discussing this matter Town Council agreed to authorize Ms. Tweedie to proceed with process of implementing credit card/debit card service, and further, authorized the Town Manager to find funds within the 2009-2010 budget that can be transferred to cover the expenses associated with processing costs. A copy of Ms. Tweedie's report is attached.
5. KEVIN CONNER – UPDATE ON DOWNTOWN PROJECT – Mr. Conner of Gay and Neel, Inc. reported that construction began one week ago on the downtown revitalization project. W & L Construction is responsible for the work at a cost of approximately eight hundred thousand dollars (\$800,000). The project area is from Pepper Street up to the Post Office, which will tie in to West Main Street where improvements have been completed. Estimated completion date is July 2010.
6. STIPES AND VANHOOZIER – Street Committee recommendation on:
 - a. Boundary Line Relocation of the Victory Restoration Church, creating 2 lots; located at Bishop's Gate Road. Councilman Stipes explained this simple request for the relocation of interior property lines with the intention to sell off a portion of the property. All is in order with the plat and Councilman Stipes made a motion to approve, seconded by Councilman Vanhoozier. Council voted on the matter as follows: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.
7. AMENDED AGENDA ITEM – Councilman Showalter commented on the aquatic center budget received from the Town Manager's office, which is \$17.98 million. Councilman Showalter said, based on his research, this is a great price for the type of facility being constructed and he is in support of the aquatic center.

8. TOWN COUNCIL consented to transfer the title and duties of "Subdivision Agent" and "Secretary to the Planning Commission" from the Town Manager to Planning Director Randy Wingfield. This transfer will allow Manager Terpenney more time to focus on his role as Town Manager.
9. CLOSED MEETING:
 - a. Vice-Mayor Carter requested a Closed Meeting under Section 2.2-3711 A(5), *Code of Virginia*, for the discussion of a Falling Branch Industrial Park prospect; and Section 2.2-3711 A(7), *Code of Virginia*, for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Councilman Barber made a motion to enter into a Closed Meeting, seconded by Councilman Stipes. Town Clerk Stipes polled Council on the motion as follows: Barber – AYE; Showalter – AYE; Stipes – AYE; Vanhoozier – AYE; Wade – AYE.
 - b. Councilman Barber made a motion to come out of Closed Meeting and enter into Regular Meeting, seconded by Councilman Wade. Council voted on the motion as follows: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.
 - c. Certification – Councilman Barber moved to certify that the Town Council of the Town of Christiansburg, meeting in Closed Meeting, to the best of each member's knowledge, discussed only the matters lawfully exempt from open meeting requirements by Virginia Law and only such matters as are identified in the Resolution to enter into Closed Meeting. Councilman Stipes seconded the certification and Town Clerk Stipes polled Council as follows: Barber – AYE; Showalter – AYE; Stipes – AYE; Vanhoozier – AYE; Wade – AYE.
 - d. Council Action on the Matter – Councilman Barber made a motion to approve a condemnation settlement in the amount of twelve thousand five hundred dollar (\$12,500) to Mr. Martin of Vicker. Councilman Wade seconded the motion and Town Clerk Stipes polled Council as follows: Barber – AYE; Showalter – AYE; Stipes – AYE; Vanhoozier – AYE; Wade – AYE.

TOWN MANAGER REPORTS:

MONTHLY BILLS – On motion by Councilman Wade, seconded by Councilman Stipes, Council voted to approve the monthly bills to be paid 10 October, 2009, in the amount of \$1,497,286.91. AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.

PUBLIC HEARING REQUEST(S) – Town Manager Terpenney presented the following request(s) and recommended setting the Public Hearing(s) as indicated:

November 2, 2009

1. A Conditional Use Permit request for an amusement facility at 2027 Cambria Street.
2. A Conditional Use Permit request for a duplex in the B-3 General Business District on Hammes Street.

On motion by Councilman Wade, seconded by Councilman Stipes, Council voted to set the Public Hearing(s) as indicated: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.

IN CONSIDERATION OF November 3, 2009 elections, Councilman Wade made a motion to move the first regularly scheduled Town Council meeting in November to Monday, November 2, 2009. Councilman Vanhoozier seconded the motion, and Town Clerk Stipes polled Council as follows: Barber – AYE; Showalter – AYE; Stipes – AYE; Vanhoozier – AYE; Wade – AYE.

TOWN MANAGER TERPENNEY gave a brief update on the progress of the aquatic center construction. All internal stairs are built and the upstairs level is framed. The lighting fixtures in the pool area are in the process of being installed.

COUNCILMAN BARBER made a motion to schedule a public information meeting during the November 2, 2009 Town Council meeting, regarding the new Christiansburg bus service. Councilman Stipes seconded the motion, and Town Council voted as follows: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade. NAYS: None.

ADJOURN:

There being no further business to bring before Council the meeting was adjourned at 11:00 P.M on motion by Councilman Barber, seconded by Councilman Wade. Council voted to on the motion as follows: AYES: Barber, Showalter, Stipes, Vanhoozier, Wade.

Michele M. Stipes, Clerk of Council

Ann H. Carter, Vice-Mayor