

**CHRISTIANSBURG TOWN COUNCIL  
CHRISTIANSBURG, MONTGOMERY CO., VA.  
MINUTES OF JULY 15, 2008 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 JULY 15, 2008 AT 7:30 P.M.

COUNCIL MEMBERS PRESENT: Mayor Ballengee, Councilmembers Barber, Canada, Carter, Huppert, Stipes, and Wade. COUNCIL MEMBERS ABSENT: None. Also present Town Manager Terpenny, Assistant Town Manager Helms, Town Clerk Stipes, Town Planner Hair, and Town Attorney Memmer.

PLANNING COMMISSION MEMBERS PRESENT: Commissioners Booth, Byrd, Carter, Moore, Poff, Simmons, and Vanhoozier. PLANNING COMMISSION MEMBERS ABSENT: None.

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

PLEDGE OF ALLEGIANCE led by Councilwoman Carter.

**JOINT PUBLIC HEARING**

1. A Conditional Use Permit request by Byron Young (agent for property owner William A. Price) for property located at 155 Howery Street (tax parcel 503 – ((7)) – 7) for a major home occupation (Eden Lawns and Landscaping) in the R-1 Single-Family Residential District. Mr. Mike Caylor addressed Council in support of the request. Mr. Caylor, an adjoining neighbor, commented that the applicants are wonderful neighbors and that the property is kept in a manner in which it is not obvious that a business is being operated. He asked that Council issue the requested CUP. Town Manager Terpenny said he has received three correspondences from neighboring property owners (two letters, one email) James David, Judith Mann, and Mr. Gentry. The two letters were in support of the request, but Mr. Gentry's email was adamantly opposed because of trucks, trailers, and equipment storage on the property and employee vehicle traffic. The applicant currently holds a permit issued by the Town to operate a minor home occupation; however, the business has grown and Mr. Young now has two trucks and two trailers, with mowers, parked at his residence, which constitutes a major home occupation. There is also some traffic generated by Mr. Young's employees.
  
2. A Conditional Use Permit request by Kenneth and Darlene Lancaster for property located at 940 Radford Street (tax parcels 525 – ((A)) – 31 and 31C) for a commercial garage and towing service in the B-3 General Business District. Mrs. Lancaster explained that this request is to expand their existing business to the building next door, which they recently purchased. The parking lot used for the existing business will also serve the new building. There were no questions for the applicants.

**PUBLIC HEARING**

1. Partial subdivision vacation request – Scott Street. Mayor Ballengee explained that the developer of the subdivision has requested that the Town vacate a portion of the property designated as common area. The developer plans to construct three townhomes. Terry Thomas, representing his mother who lives next door to the property, said that the applicant made this same request several years ago and was denied by Council. Like now, the applicant requested to vacate enough property to allow for three townhomes; two townhomes can be built by right. The developer never followed through with construction after the 2004 action by Town Council. Mr. Thomas is opposed to this vacation request. Mr. Kevin Conner of Gay and Neel, on behalf of the applicant, explained that this vacation request would create three lots from the existing four lots, with approximately .022 acres being vacated. Mr. Conner stated that, with approval, the developer, Hash Investments, LLC, plans to construct three townhomes, which would become part of the existing homeowner's association. Councilman Canada questioned the necessity of the request. Manager Terpenny replied that the partial subdivision vacation is necessary for the developer to meet setback requirements. Town Manager Terpenny clarified that the commonspace was owned by Hash Investments who dedicated the property to the Homeowner's Association several years ago. Hash Investments now wants the property back. According to State Code, in order to vacate a portion of an approved subdivision, all parties holding an interest must sign off on the vacation plat, or the locality can hold a public hearing which would allow property owners a chance to speak out. Councilman Canada asked if all the members of the homeowner's

association had been notified and Kevin Conner replied that they had. Councilman Canada stated that he does not have enough information about this matter to make an informative decision. He further commented there are many unanswered questions, such as why they didn't construct in 2004; why the land was dedicated to the homeowner's association; why does the owner want it back? Councilman Canada asked that Town staff look into this matter to gather the information necessary to gain insight on this request. Mr. Terry Thomas said that approximately five years ago the property was for sale. The owners were asking \$66,000 for the property, which was on the market for approximately nine months before being taken back off the market.

#### **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 July 1, 2008. Councilman Barber made a motion to approve the minutes as presented, seconded by Councilman Huppert. Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

#### **CITIZEN HEARINGS:**

MAYOR BALLENGEE opened the Citizen Hearings for those desiring to address Council.

#### **PLANNING COMMISSION'S RECOMMENDATIONS ON THE JOINT PUBLIC HEARING REQUESTS:**

1. A Conditional Use Permit request by Byron Young (agent for property owner William A. Price) for property located at 155 Howery Street (tax parcel 503 – ((7)) – 7) for a major home occupation (Eden Lawns and Landscaping) in the R-1 Single-Family Residential District. At Chairperson Simmons' request, Town Manager Terpenny read the Planning Commission's resolution recommending Town Council issue the CUP with two conditions, by unanimous vote. A copy of the resolution and conditions is attached herewith and made a part of these minutes.
  
2. A Conditional Use Permit request by Kenneth and Darlene Lancaster for property located at 940 Radford Street (tax parcels 525 – ((A)) – 31 and 31C) for a commercial garage and towing service in the B-3 General Business District. Town Manager Terpenny read the Planning Commission's resolution recommending Town Council issue the CUP with twelve conditions, by unanimous vote. A copy of the resolution and conditions is attached herewith and made a part of these minutes.

MS. SHIRLEY HALLOCK addressed Council about an agreement the Town made with Pepsi-Cola at the August 19, 2003 regular Town Council meeting. In the agreement, Pepsi-Cola representative, Mr. Mike Meadows, agreed to pay the Town twenty thousand dollars to have Pepsi machines installed at Town facilities. The Town received a ten thousand dollar check from Pepsi-Cola on May 4, 2004, and Ms. Hallock questioned if the Town ever received the remaining ten thousand dollars. Mayor Ballengee commented that he is familiar with the agreement, but unsure of the financing arrangements. Manager Terpenny said he will review the Treasurer's reports to see if, or when, the funds were received.

MR. ROGER WOODY proposed that the Town consider allowing the use of "low speed" vehicles in the downtown areas of Christiansburg. Mr. Woody has spoken with Police Chief Sisson about possible usage guidelines, such as vehicle inspection, insurance, and 25 – 35 mph speed limit. In light of rising gas costs many areas are looking into using these vehicles as an alternative means of transportation. Chief Sisson commented that he has met with Mayor Ballengee and Town Manager Terpenny regarding the section in the *Virginia State Code* allowing for these types of vehicles. According to *State Code*, these "low speed" vehicles are authorized for highway use in 25 – 35 mph zones, with restrictions. The vehicles require titling through the Department of Motor Vehicles, and insurance. The governing body, or VDOT, has the authority to designate usage zones. Attorney Memmer commented that, according to *State Code*, the vehicles require head/tail lights, rearview mirror, vehicle identification number, etc., much like a car, and must be operated by a licensed vehicle driver. Mayor Ballengee questioned the practicality of these vehicles due to the number of streets in Town with a speed limit greater than 35 mph. Councilman Barber is opposed to usage of these vehicles in town because of major safety factors. Councilman Canada commented that he is interested in implementing guidelines allowing the usage of these "low speed" vehicles. While visiting Florida, Councilman Canada noticed a broad, successful usage of these types of vehicles, and believes they can be a practical alternative to large, heavy gas usage vehicles. Councilman Canada stated that if the State has laws providing for the usage of "low speed" vehicles, then the Town should allow them for folks who are interested. Councilman Stipes commented that this is an interesting topic and he is open to consideration. He likes the fact that people are thinking of creative ways to be conservative, and noted that the Town can be more restrictive in its guidelines than the State. Councilman Huppert pointed out that many people are finding ways to conserve gas, but that the "low speed" vehicles may be too dangerous to be a practical solution, and that many factors would

have to be considered. Mayor Ballengee appointed Chief Sisson, Councilman Stipes, and Planning Commissioner Booth to an ad hoc committee to thoroughly review the matter and make a recommendation to Council.

There being no one else to address Council, MAYOR BALLENGEE closed the Citizen Hearings.

DISCUSSIONS BY MAYOR AND COUNCIL MEMBERS:

**COUNCIL ACTION ON THE PLANNING COMMISSION'S RECOMMENDATIONS ON THE JOINT PUBLIC HEARING REQUESTS:**

1. A Conditional Use Permit request by Byron Young (agent for property owner William A. Price) for property located at 155 Howery Street (tax parcel 503 – ((7)) – 7) for a major home occupation (Eden Lawns and Landscaping) in the R-1 Single-Family Residential District. Councilman Wade made a motion to issue the CUP with two conditions, to be reviewed in six months, seconded by Councilman Barber. Councilman Canada expressed his concern with allowing businesses that use work trucks in the R-1 Single-Family Residential District. Councilman Canada said he can support non-invasive minor home occupations in residential districts, but not this type of major home occupation. Councilman Barber also expressed his opposition to the request. Councilman Stipes commented that, while he respects the Planning Commission's recommendation, the letter of opposition from Mr. Gentry, who lives next door to the Youngs', is a compelling reason for him not to support the request. Councilman Huppert pointed out that Mr. Taylor, who has spoken highly in favor of the request, also lives next door to the Youngs'. Town Clerk Stipes polled Council on the motion to approve as follows: Barber – NAY; Canada – NAY; Carter – AYE; Huppert – AYE; Stipes – NAY; Wade – AYE. The vote is tied. Mayor Ballengee stated that because of the two conditions set forth in the CUP, and the automatic six month review, he is comfortable supporting this request. Mayor Ballengee voted AYE to the motion to approve, breaking the tie, and approving the issuance of the CUP with two conditions and automatic six month review.
  
2. A Conditional Use Permit request by Kenneth and Darlene Lancaster for property located at 940 Radford Street (tax parcels 525 – ((A)) – 31 and 31C) for a commercial garage and towing service in the B-3 General Business District. Councilman Barber made a motion to support the Planning Commission's recommendation to issue the CUP with twelve conditions. Councilman Canada seconded the motion after commenting that he visited the site and found it to be clean, neat, and fenced. Council voted on the motion as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

**COUNCIL ACTION ON THE PARTIAL SUBDIVISION VACATION REQUEST** – Councilman Barber made a motion to deny the request, seconded by Councilman Huppert. Councilman Wade stated that if the property owner can get all the members of the homeowner's association to agree to this vacation request, he would reconsider the request. Councilmen Stipes, Canada, and Huppert agreed with Councilman Wade. Councilman Stipes noted that the owner can build two townhomes by right, and that approving the partial subdivision vacation allowing for a third townhome would effectively reduce the amount of open space in the subdivision. Council voted on the motion as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None. The request is denied.

**RECOMMENDATION FOR APPOINTMENT TO THE MBC DEVELOPMENT CORPORATION** – Mayor Ballengee reported that he has served on the MBC Development Corporation Board for eight years and his term will expire July 31, 2008. Councilman-Elect Showalter has agreed to serve on this Board. Mayor Ballengee commented that Mr. Showalter's background in finance will be an asset to this corporation, which grants small loans to businesses of an industrial nature. Councilman Wade made a motion to appoint Councilman-Elect Showalter to the MBC Development Corporation, seconded by Councilman Stipes. Council voted on the motion as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None. Mayor Ballengee will notify the Board.

**MAYOR BALLENGEE** reported that there is a vacancy on the Planning Commission due to Jim Vanhoozier's election to Town Council. It is the desire of Council to receive a recommendation from the Planning Commission, since the Commission is in a better position to interview applicants. The position will be publicly advertised.

**MR. STIPES AND MR. CANADA** – Street Committee recommendations on:

1. Plat of survey of boundary line adjustment, lot 3, lot 4 & lot 5 of the Via Industrial Park, Phase I; 3 lots; Scattergood Drive, N.W. Councilman Stipes reported that this request provides for private ingress/egress to the properties. Access road will narrow from fifty-feet to thirty-feet. Plans for Lot 5 include interior lot line vacation/relocation. All is in order with the plat and Councilman Stipes made a motion to approve, seconded by Councilwoman Carter. Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

2. Plat showing lot line vacation on lots 1 & 2, Surface-Wade Farm prepared for B & B Storage, LLC; 1 lot; Radford Street and Badger Street, N.W. Councilman Stipes explained that this request is to vacate an interior lot line to create one parcel from two parcels. All is in order with the plat and Councilman Stipes made a motion to approve, seconded by Councilman Barber. Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

**MAYOR BALLENGEE** discussed with Council the need to make a decision on the Huckleberry bridge design, which was presented to Council by Gay and Neel, Inc. at the June 17<sup>th</sup> regular Town Council meeting. Mayor Ballengee asked that Council review the material provided by Gay and Neel, Inc., and be prepared to make a decision in the next few weeks. Councilman Barber asked if the planned bridge would be handicapped accessible. Councilman Stipes commented that he met with the planners regarding ADA compliance and he invited Kevin Conner to address Councilman Barber's question. Mr. Conner, of Gay and Neel, Inc., reported that he spoke with both the Department of Justice and the Federal Access Board regarding ADA compliance of the bridge and found there to be no guidelines or requirements. Mr. Conner said, at this point without further study, there is no direct answer. He believes the bridge should be ADA compliant, but is not sure if it is required. Councilman Stipes noted that the Huckleberry Trail is not ADA compliant since funding was received from the Federal Highway Administration through Virginia Department of Transportation. If the bridge is not required to be ADA compliant, Councilman Stipes recommended documentation so as to not jeopardize future funding applications. Councilman Stipes pointed out that this is a matter that can be discussed with Mr. Dana Martin, Salem District Commonwealth Transportation Board member, who is planning to visit the Huckleberry Trail project in the fall as the November 2008 funding cycle comes to a close. Mayor Ballengee said he wants the bridge to be ADA compliant. Councilman Wade questioned the difference in cost to design the bridge for handicap accessibility. Councilman Stipes replied that there is a difference between ADA compliance and handicap accessibility. Further research by Gay and Neel, Inc. will be done to determine what particular ADA requirements may be applicable to the Huckleberry Trail project, Christiansburg extension.

#### TOWN MANAGER REPORTS:

**COUNCILMAN BARBER** made a motion to jointly reappoint John W. Kirby and C. W. Smith to the Blacksburg-Christiansburg-VPI Water Authority, seconded by Councilman Wade. Both terms for Mr. Kirby and Mr. Smith expire August 31, 2008. The Town of Blacksburg has supported the joint reappointment and the reappointment resolution will be forwarded to Virginia Tech for consideration by the Board of Visitors. Council voted on the motion as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

**AQUATIC CENTER UPDATE** – Manager Terpenny reported that the concrete has been pored for the fifty-meter pool, and guttering is ready to be shipped along with bulk heads. This will complete the fifty-meter pool. Diving platforms are complete and block work continues. Plumbing and electrical is in progress. Manager Terpenny hopes to bring the name of the new director to Council at the August 5, 2008 Town Council meeting.

**NEW PRELIMINARY FLOOD MAPS** provided by the Federal Emergency Management Agency can be viewed in the Town's planning department.

**TOWN COUNCIL DISCUSSED** the Planning Commission's review of the SB Holdings, L.L.C. Conditional Use Permit. Several extensions have been granted to SB Holdings providing additional time to begin operating at the company's industrial park site. The building is still not complete, although the Planning Commission has been assured by owner Sandy Bennett that he will move in before the end of the six months if granted another extension. The Planning Commission required that Mr. Bennett submit a plan outlining his efforts to complete the site and begin business operations by the end of a six month extension. Councilman Barber commented on the number of extension granted beginning in 2004. Councilman Wade suggested working with the six month time frame discussed by the Planning Commission and if the business does not meet the deadline the CUP will be revoked. Council discussed possible legal options, including giving notice to SB Holdings, L.L.C. to vacate its current operating site within six months. Manager Terpenny and Mayor Ballengee will visit the site to determine its condition and to ask Mr. Bennett to come before Council to discuss his plans.

**MAYOR BALLENGEE** distributed to Council the latest information from Virginia Municipal League pertaining to the Freedom of Information Act.

**MAYOR BALLENGEE** reported that he has attempted to schedule a meeting for July 29, 2008 with the Chamber of Commerce in respect to tourism funding. He has not received a response from the Chamber of Commerce at this date. The Town will continue its attempts to renegotiate its contract with the Chamber of Commerce regarding the tourism funding.

MAYOR BALLENGEE reported that he is currently in the process of forming a committee to work with the architect on decorating the aquatic center. The committee will have representation from Council and the community.

ADJOURN:

There being no further business to bring before Council the meeting was adjourned at 9:35 P.M., on motion by Councilman Barber, seconded by Councilman Stipes, Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

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Michele M. Stipes, Clerk of Council

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Richard G. Ballengee, Mayor