

MINUTES OF THE STRASBURG TOWN COUNCIL WORK SESSION HELD ON TUESDAY, SEPTEMBER 5, 2017 AT 7:00 P.M. IN THE COUNCIL CHAMBERS OF THE STRASBURG TOWN HALL.

PRESENT: Mayor Orndorff and Vice Mayor Terndrup and Council Members Le Vine, Maddox, Newman, and Plitt. Absent: Council Member Bishop and Vena.

STAFF PRESENT: Town Manager Pearson and Clerk of Council Keller.

Mayor Orndorff called the Work Session to order and reviewed the agenda.

Public Hearings:

- **Preliminary Plat Application:** To receive public comment on the Preliminary Plat application for the Homewood Development located on Hite Lane (Tax Map #016 A 162). The property is currently zoned Medium Density Residential and the applicant is proposing to subdivide the property for the construction and sale of new and existing homes.

Town Manager Pearson gave a brief overview and history of the project. Following this application, a final site plan will go through both the Planning Commission and Town Council.

The Public Hearing opened at 7:02 and as there were no speakers, closed at 7:02 p.m.

- **Rezoning Application:** To receive public comment on a rezoning application for 491 East King Street (Tax Map #025A4 A 077A) from Medium Density Residential to Community Commercial. The applicant argues that the property was constructed for a Commercial use and has always been used as such.

Town Manager Pearson said it is currently zoned residential, but was built as a commercial property and the building would take a lot of renovations to make it a residence. He showed where the house is and said it is adjacent to Rockingham Coop.

The Public Hearing opened at 7:03 and as there were no speakers, closed at 7:04 p.m.

- **Special Use Permit:** To receive public comment on a Special Use Permit application for a Telecommunications Tower to be installed at 458 Radio Station Road (Tax Map #016 A 174B). The property is zoned Business Park/Limited Industrial and the applicant, Virginia Air Networks, plans to install a 65' telecommunications tower.

Town Manager Pearson showed the location on a map. The property is located in the Northern Shenandoah Valley Business Park. The applicants want to install a telecommunication tower to provide cellular internet to Strasburg and Shenandoah County. The Planning Commission recommended the approval along with the provision that there be provided leasable space on the tower on a reasonable and non-discriminatory basis

The Public Hearing opened at 7:06 and as there were no speakers, closed at 7:06 p.m.

- **Contract for Sale:** To receive public comment on a contract for the sale of 218 East King Street, commonly known as the "Brown House" (Tax Map #025A3 A 304). Town Council provided the Town Manager the authority to negotiate with the purchaser FPI, LLC at the July 31st special Council Meeting, following a closed session discussion. The Town Manager has since executed a contract for the sale of the property contingent upon a Town Council vote to approve the contract.

Town Manager Pearson said a contract was entered into midway through August which included a \$60,000 sale price and the back portion of the two adjacent lots. The new owner would need to replace roof by May, 2018. Other covenants were placed on the deed.

The Public Hearing opened at 7:07 and as there were no speakers, closed at 7:08 p.m.

Citizen comments on non-agenda items

Action Items:

1. **Approval of Minutes:** July 17, 2017, Council Work Session
Minutes of the July 17, 2017, Council Work Session were approved as presented.

Discussion Item:

1. **Appointment to the Board of Zoning Appeals**

Description: The representative to the Board of Zoning Appeals from the Planning Commission resigned from the Commission. The Planning Commission has recommended Commissioner Vince Poling for this vacancy.

Council Member Hall asked if **Mr. Poling** could serve on both the Planning Commission and the BZA and he can; the Planning Commission always has a member on the BZA. An official vote will be taken at the Council meeting.

2. **Preliminary Plat Application for Homewood Development**

Description: Preliminary Plat application for the Homewood Development located on Hite Lane (Tax Map #016 A 162). The property is currently zoned Medium Density Residential and the applicant is proposing to subdivide the property for the construction and sale of new and existing homes.

Town Manager Pearson said this was submitted by DICE Engineering. Proffer amendments were gone through. There are minor elements that will have to be gone through before the final plat, but he feels this can happen. Planning Commission recommended approval with the condition that all the comments be addressed prior to the preliminary plat coming before Town Council. The referenced comments are those in the comment letter provided in the packet.

Council Member Le Vine repeated that the plan of Homewood is to donate Lot 39 to the Strasburg Express. He hosts a player each summer and his wife is on the Board of the Express. He does have some connections to the Express and he wanted to make this public.

Council Member Le Vine said there is a cul-de-sac to the pump station and he asked about the road going through the open space. He doesn't want to endanger the use of Lot 39 as a sports complex would be great for the town. He wants to be sure we can support the traffic.

Town Manager Pearson said greenspace is one of the issues that will need to be ironed out. The amount the road will take up would still allow for them to meet their open space area. He said this was added due to the UDO. **Council Member Le Vine** said he just wants to make sure we do not preclude the use of Lot 39 and that we have maximum use of the land. **Town Manager Pearson** said they are providing access to the lot due to the pump station and so the owners of Mt. Pleasant can access the land. They are not required to show this at this time. He said we do have options and even if we don't, it is not our purview to look at this now.

Council Member Newman asked if there was a reason why the road could not go through a certain way and the main reason is due to the gas line. The right-of-way could be acquired for a different access. **Council Member Newman** asked **Mr. Ernie Angel** (applicant representative) how they are notifying the people living in the area that there is a potential for the ball park. **Mr. Angel** said the tenants have all been informed, but they do not know who future buyers might be. **Council Member Newman** says he just wants to be sure the people who buy know that a ball park will be built in their back yard.

Council Member Le Vine had some questions about terminology that **Mr. Dennie Dunlap**, engineer, answered. **Council Member Le Vine** asked about #7 and #8 and the roads being turned

over to VDOT and he wanted to know what happens if VDOT does not approve. **Town Manager Pearson** said he would require this approval before final plat. **Council Member Le Vine** said he wants to make sure the town doesn't approve something that VDOT will not approve. It was noted that numbers 7, 8, and 2 will all be resolved before final approval. Also, whoever gets lot 39 will work with Belle Grove and Cedar Creek Battlefield Foundation on turning over the trails to the Town of Strasburg.

Council Member Le Vine asked about the A.3 in the proffers said he would like it to be required that they work with appropriate state officials. **Town Manager Pearson** said the proffer amendments have already been approved.

Vice Mayor Terndrup asked about #9 and the open space requirements. When the concept of the development changed from no children to families with children, this focus changed. He said there is no sidewalk to get from Lot 30 to open space A. He would like to see this due to the safety of children. Also, a crosswalk will be needed to get to open space B. The UDO stresses that it is not just open space, but usable open space. He asked if this was a total of 38 homes, including those already built and it is. He asked if **Director of Public Works McKinley** had looked at this as far as the water and sewer capacity and he has and we have the capacity. **Vice Mayor Terndrup** said originally a proffer was in that the developer would fund the improvements to the lines and that had already been taken out of the proffers. **Council Member Le Vine** said he thought the proffers didn't change and the amendments were only added to the original proffers. **Town Manager Pearson** said the development was approved as a rezoning on a much larger scale and there are proffers attached to the commercial area that did not change.

Council Member Newman asked about the bottle-neck issue on the sewer line along Route 11. He feels this should be a priority on how we will address this so we do not meet capacity.

Patsy Hassert, 112 Signal Knob Cottage Drive: Their house looks over Lot 39 and she would like to know what the ball park would consist of as it has never been fully explained to them. **Town Manager Pearson** said it is not Homewood's requirement to show what it would look like and it will be up to the Strasburg Express to come back with a plan. **Council Member Le Vine** said they are talking about a baseball field, but it has not been designed. **Mrs. Hassert** asked if there will be tall lights and a loud speaker and **Council Member Newman** said at a minimum it would be comparable to the field at Sandy Hook.

Robert Hassert, 112 Signal Knob Cottage Drive: Stated that no mention has been made of the retention pond and he asked if there was any further information on this. **Town Manager Pearson** said the most recent plans show the HOA maintaining the retention pond. The town does not get into maintaining retention ponds.

Council Member Newman asked what that means to maintain the retention pond. **Town Manager Pearson** said it would depend on the design of the pond as there are dry and wet retention ponds. DICE will give a plan for the maintenance of the pond. **Mr. Dunlap** said a portion will be wet. He envisions brush hogging, but not weekly mowing.

Vice Mayor Terndrup asked who would be responsible for calculating the cost of the maintenance. Would a realtor do this? **Town Manager Pearson** said the applicant would do this and he could do some research on the cost to each homeowner. **Vice Mayor Terndrup** wants to make sure we are in the "ball park" as far as the HOA fees, etc. **Town Manager Pearson** explained the HOA doesn't "kick-in" until a certain amount of homes are sold. He said it would be bonded until the HOA takes over.

Mike Redden, citizen, asked how close Lot 39 is to the retention pond and it is actually on Lot 39 and it is about 600 yards to the area where the care would need to be done.

This will be voted on at the next Council meeting.

3. **Rezoning Application for 491 East King Street**

Description: Rezoning application for 491 East King Street (Tax Map #025A4 A 077A) from Medium Density Residential to Community Commercial. The applicant argues that the property was constructed for a Commercial use and has always been used as such.

Town Manager Pearson said it was constructed for a commercial use and it is now zoned as residential. The Comprehensive Plan supports this rezoning. He believes this is something that slipped through the cracks and was made residential during the writing of the UDO. The Land Use group of the Comprehensive Plan Update has discussed this area.

Vice Mayor Terndrup said if you rezone this to Community Commercial, then you have a by-right usage and then you have a parking issue. **Town Manager Pearson** said, though, that if something changes, the new use would have to come in and offer a plan for parking.

Town Manager Pearson said in a community commercial zoning, there would need to be a 10' setback from any residential property. He explained why they do not need a site plan now and why they might need to do so in the future.

4. **Special Use Permit for a Telecommunications Tower at 458 Radio Station Road**

Description: Special Use Permit application for a Telecommunications Tower to be installed at 458 Radio Station Road (Tax Map #016 A 174B). The property is zoned Business Park/Limited Industrial and the applicant, Virginia Air Networks, plans to install a 65' telecommunications tower.

The applicant explained there will be no staff on site. **Town Manager Pearson** said the proposal meets the UDO. They are not required to comply with the provision that they provide leasable space on the tower on a reasonable and non-discriminatory basis, but he and the Planning Commission are recommending this. The previous tower had been 500 feet and this will be 65 feet.

Council Member Le Vine asked about the visibility of this and the screening. The fencing was to provide screening of the utility box. **Council Member Le Vine** asked if it will affect the aesthetics of the business park. It was explained the tower will only be about 2.5 feet square. The applicant said it will be masked by trees. **Council Member Le Vine** said a Leland Cypress is not a good species to use. He asked about the existing structure not being utilized and can this be changed at a later point. **Town Manager Pearson** said if it expands, they would have to come back with an amendment.

Council Member Newman asked about the size of the dishes and how many there will be on it. They will be about 18 inches in diameter and there will be five dishes. He wanted to know what would happen if others wanted to rent and they didn't want to rent from them. **Town Manager Pearson said**

Council Member Hall said the property is being leased to put the tower on. He asked if the Council should restrict what the owner already has. **Council Member Le Vine** asked if the special use is for the tower or for the land. **Town Manager Pearson** said it runs with the land. The applicant said they are leasing the entire property. **Council Member Le Vine** asked if we were

limiting the entire property or just the portion they are using. **Town Manager Pearson** said he is not sure, but another SUP could not be applied for on the same property; he will check on how much of the property will be limited.

Council Member Maddox asked what the failure rate is of such a tower. She wanted to know where it would fall. The applicant said it would not hit I81. It is rated for 130 mph winds. More explanation was given on the way the business is being structured.

Council Member Newman said the tower is designed for a certain size dish and a certain wind so he asked if they were limiting their competition, but the applicant said the sections of the tower lower would be accessible.

They are looking to go live in the middle of October.

5. Contract for the Sale of 218 East King Street

Description: Town Council provided the Town Manager the authority to negotiate with the purchaser FPI, LLC at the July 31st special Council Meeting, following a closed session discussion. The Town Manager has since executed a contract for the sale of the property at 218 East King Street, commonly known as the "Brown House" (Tax Map #025A3 A 304), contingent upon a Town Council vote to approve the contract.

Town Manager Pearson said the contract was provide in the packet and he is willing to answer questions on the contract.

Council Member Le Vine asked some clarification questions. If this occurs, there are no federal or state restraints and there are not. Nothing would be different than the rest of the street.

Council Member Le Vine, in discussing the purchase price, questioned the language on the land being conveyed. He would like for **Town Attorney Miller** to review and if he is okay with it, then he is. He asked what roll back taxes are and **Town Manager Pearson** said he does not know, but knows it comes up with real estate dealings.

Council Member Le Vine said he likes the provision on not allowing offensive signage, etc. and asked if there is any enforcement. **Town Manager Pearson** said it would allow us to go to court instead of going through the ordinance. There is no way to fully mitigate a bad neighbor, but this is the closest.

Council Member Le Vine, under the right-of-first-refusal clause, asked who would determine the sale price and it would be the owner/seller. The seller couldn't change the price to a lower price after we refuse. Further discussion followed on the first right of refusal. This will be discussed with **Town Attorney Miller** during the Council meeting.

Council Member Le Vine questioned if Council could require that the buyer comply with DHR and their recommendations. He doesn't want DHR to come back on the town. He would like to add a statement that the buyer would repair in compliance with the letter from DHR.

Council Member Le Vine said the contract is not contingent on financing, but then it says the buyer can back out if they do not get financing that suits them. He thinks it is contradicting. It was noted that **Town Manager Pearson** thought the study period was over and that it started when the agreement was signed. **Town Manager Pearson** said it could be written into the contract that the earnest money would not be returned.

Council Member Le Vine asked what the net income to the town would be. He wanted to know how much money will be leftover. It was thought by other Councilors that we should not have to pay the realtor fee.

Town Manager Pearson said upon being contacted, **Owen Heine** (Sager Real Estate) was representing the buyer so we would be paying the fee. **Council Member Le Vine** asked why we should have to pay this when we didn't advertise to sell, etc. Other Councilors were in agreement that they did not want to pay the fee to a realtor. **Town Manager Pearson** doesn't think the realtor can be cut out of this. **Council Member Le Vine** said there are times that the buyer can pay the fees.

People in the audience said if we didn't enter into a contract with Sager then there is no reason to pay the fee. They were brought in by the buyer and were just expecting to be paid by the seller.

George Rathore asked about the timeframe of the roof after the sale and it would need to be replaced by May 1, 2018. He asked if the buyer knew he had to go through the ARB and he does. **Mr. Rathore** asked when the town will have an assessment value of the land being given to the town. **Town Manager Pearson** said he doesn't think it is necessary as it will not be relevant to our use. The land is relevant to the town due to it being next to the park. **Mayor Orndorff** said the buyer has no real idea of what the value is of the back portion of his land. Currently they are valued at having a building on it and the other lot has King Street frontage. The buyer will need to know this and he assumes this will be done through Shenandoah County. **Council Member Le Vine** said we bought the house and land for \$100,000 and are selling it for \$60,000 and the value of the land. **Vice Mayor Terndrup** said the Brown house lot was assessed at \$80,000 so he thinks we are getting an excellent value for it. This question cannot really be answered until the sale goes through and the County changes their tax assessment on the remaining part of the land the buyer owns. Another citizen said this sale is reducing our tax base. **Town Manager Pearson** said he understands there are some concerns with the taxpayer dollars, but he doesn't think we can answer this until we sell the property.

Debbie Pitcock asked if there was any possibility of the buyer demolishing the Brown House and rebuilding. **Town Manager Pearson** explained the regulations on this as stated in the UDO.

Vice Mayor Terndrup said it sounds like there is some mistrust in the conversation. Council is elected to make the decisions in the best interest of all the citizens and this is all that is being done by the Council and the Town Manager. He spoke further about those entrusted with the duties of serving the public and how they are just doing their job.

Debbie Pitcock, citizen, asked if this statement meant that citizens shouldn't ask questions.

Council Member Newman said he isn't sure what just happened and he would like to just move forward.

Mr. Rathore said he thinks all of Council is doing a great job and their job isn't easy. We don't need to argue about it and get personal.

Cindy Avvenire, citizen, asked if the plans for the space will need to be redone and if there will be a cost to this. **Town Manager Pearson** said there will be a small fee to this and there will not be any redesign, but just picking up and moving certain aspects. **Mrs. Avvenire** concluded by saying that it is the citizens' job to ask questions so they are just doing their job, too.

6. Potential Allocation of Funds from the Sale of 218 E. King Street to the CDBG Project

Mayor Orndorff said **Town Manager Pearson** has suggested that any funds gained from the sale of 218 E. King Street be added to the CDBG project. **Town Manager Pearson** said there will need to be a public hearing and we can vote on this at the September 18th Work Session. He showed the new plans with the pedestrian bridge. **Vice Mayor Terndrup** thinks it is a completely different view with the bridge.

Council was in agreement with the proposals made by **Town Manager Pearson**.

Lana Le Vine, citizen, asked if the concrete is permeable and **Town Manager Pearson** is not sure as permeable is usually more expensive.

Mr. Rathore said during the mural hearing, it was said a mural wall will be added and he asked for the location and this is not known at this time.

Council Member Plitt asked if the bridge had to be steel and concrete and there are other options.

Being no further business, the Work Session adjourned at 8:59 pm.