

**Town of Haymarket**  
**15000 Washington Street, #100~Haymarket, Virginia 20169**  
**Monday January 24, 2011 (continued from January 11, 2011)**  
**Mayor Pamela E. Stutz**

Meeting called to order at 7:00 p.m.

Roll Call: Tobias, Cole, Stutz, Scarbrough, Kenworthy, Weir  
Brinson absent

The Mayor reminds all that the public hearings from January 11 were not closed and they remain open at this time.

Mayor asks the Council to add a couple of items to the agenda this evening:

**Cole moves to add the zoning permit for Edible Arrangements to tonight's agenda, Scarbrough seconds;**

**Ayes: 5**

**Nays: 0**

**Absent: Brinson**

Mayor asks the Town Council to schedule a work-session for the Street-Scape Project. An update is needed and should be done in a closed session. Work-Session set for February 8, 2011 @ 7pm.

**Planning Commission Special Meeting**

Chairman Bare opens the public hearings for two Special Use Permits

Roll Call: Bare, Ivancic, Weir  
Graham & Jarboe Absent

- **ChemSurvival Special Use Permit #SUP20091116**  
6696 Comanche Court  
1<sup>st</sup> Call in favor, 2<sup>nd</sup> Call, 3<sup>rd</sup> Call  
1<sup>st</sup> Call opposed, 2<sup>nd</sup> Call, 3<sup>rd</sup> Call  
No one spoke
  
- **Arctic Sun Special Use Permit #SUP20091105**  
1<sup>st</sup> Call in favor, 2<sup>nd</sup> Call, 3<sup>rd</sup> Call  
1<sup>st</sup> Call opposed, 2<sup>nd</sup> Call, 3<sup>rd</sup> Call  
No one spoke

Bare closes the public hearings and calls the special meeting of the Planning Commission to order

**Special Use Permits**

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**Weir motions to forward to the Town Council Special Use Permit #SUP20091116 for ChemSurvival Enterprises to be located at 6696 Comanche Court, to the Town Council with a recommendation for approval, Bare seconds;**

**Ayes: 3**

**Nays: 0**

**Absent: Jarboe & Graham**

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**Weir motions to forward to the Town Council Special Use Permit #SUP20091105 for Arctic Sun Heating & Air to be located at 6608 James Madison Highway, to the Town Council with a recommendation for approval, Ivancic seconds;**

**Ayes: 3**

**Nays: 0**

**Absent: Jarboe & Graham**

**Zoning Permits**

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**Weir moves to forward the zoning permit for Edible Arrangements at 6723 Leaberry Way in 58-257 (7), Ivancic seconds;**

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**Weir moves to adjourn the special meeting of the Planning Commission, Ivancic seconds;**

**Ayes: 3**

**Nays: 0**

**Absent: Jarboe & Graham**

Mayor opens the public hearing for two special use permits

1<sup>st</sup> Call in favor, 2<sup>nd</sup> Call, 3<sup>rd</sup> Call

**Alexandra's Keep**

All calls: No one speaks

**Acqtel Realty**

Town Planner re: Alexandra's Keep

Planner explains that the elevations were a development condition of this site

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**Tobias motions to defer the Alexandra's Keep application to February 7, 2011, Weir seconds;**

**\*\*February agenda**

**Roll Call Vote: Tobias-Yes, Cole-Yes, Scarbrough-Yes, Ken worthy-Yes, Weir-Yes, Brinson-Absent**

**Cole motions**

that the *(Planning Commission recommend approval of / Town Council approve)* SUP# 20101124, Acqtel Realty, Inc, for an in home occupation as described on the special use permit application and narrative dated November 24, 2010, pursuant to Section 58-53 (6) of the Zoning Ordinance, and subject to the development standards of Section 58-16, Home occupations; AND I further move that the SUP shall remain in effect for a period of one year, to renew automatically for additional periods of one year, BUT EXPRESSLY CONDITIONED UPON THE FOLLOWING: Council may require, upon a majority vote, after notice to the applicant, for the applicant (or present property owner) to submit a new application for an SUP, which shall be treated in all respects as a new and different application, subject to approval or disapproval, in accordance with general principles of law for a new application. If such notice is given to the applicant or present property owner, this SUP shall terminate automatically and without further notice or action by the Council 90 days from the giving of such notice.

**Weir seconds;**

**Roll Call Vote: Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent**

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**Tobias moves to approve the special use permit application for #SUP20091105 Arctic Sun Heating & Air Conditioning,**

Town Council renew SUP 20091105, Arctic Sun Heating and Air Conditioning, Inc., for operations as described on the special use permit application and narrative dated December 4, 2009, and with the following development conditions:

1. The special use permit will be renewed annually until development of final site plan "Haymarket Industrial Park – Parcel "C"".
2. Concrete wheel stops or other similar device shall be used to delineate parking spaces as shown on the application plat.
3. The Applicant shall maintain the gravel parking used for parking in a serviceable condition for the duration of the special use.
4. Except as noted above, Section 58-260 has otherwise been met by the approved Haymarket Industrial Park – Parcel "C" site plan.
5. There will be no outside storage of construction materials or heavy equipment

And, I move that the Town Council approve a minor adjustment to Haymarket Industrial Park – Parcel "C" without formal review Pursuant to Section 58-510. AND, I further move that the SUP shall remain in effect for a period of one year, to renew automatically for additional periods of one year, BUT EXPRESSLY CONDITIONED UPON THE FOLLOWING: Council may require, upon a majority vote, after notice to the applicant, for the applicant (or present property owner) to submit a new application for an SUP, which shall be treated in all respects as a new and different application, subject to approval or disapproval, in accordance with general principles of law for a new application. If such notice is given to the applicant or present property owner, this SUP shall terminate automatically and without further notice or action by the Council 90 days from the giving of such notice.

**Weir seconds;**

**Roll Call Vote: Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent**

**Cole motions the following:**

I move that the Town Council approve #SUP20091116, ChemSurvival Enterprises, for operations as described on the special use permit application and narrative dated November 15, 2009, pursuant to Section 58-53(6), subject to the development standards of

Section 58-16, Home occupations. I further move that the SUP shall remain in effect for a period of one year, to renew automatically for additional periods of one year, BUT EXPRESSLY CONDITIONED UPON THE FOLLOWING: Council may require, upon a majority vote, after notice to the applicant, for the applicant (or present property owner) to submit a new application for an SUP, which shall be treated in all respects as a new and different application, subject to approval or disapproval, in accordance with general principles of law for a new application. If such notice is given to the applicant or present property owner, this SUP shall terminate automatically and without further notice or action by the Council 90 days from the giving of such notice.

**Roll Call Vote: Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent**

**Weir moves to approve the zoning permit, #for Edible Arrangements to be located at, Cole seconds;**

**Ayes: 5**

**Nays: 0**

**Absent: Brinson**

**Citizen's Time**

No one speaks

\*\*Brinson enters meeting

**Utterback House**

The ARB needed to make a decision within 45 Days, per the Town Attorney. Swinford addresses council and speaks. Tobias asks about the 14 day provision in the code, the Town attorney says that no it is 45 days. Swinford asks that all ideas please be presented to the ARB they would love to hear what everyone is thinking.

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**Scarbrough motions to grant the ARB additional time on the application for demolition of the Utterback house until the April 20, 2011 ARB meeting, Cole seconds;**

**Discussion: Cole reminds that this does not prevent anyone from doing research**

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**Weir:** Progress is an appropriate word in this case. He references the literature from the sale of the property. Weir comments that we already demolished by neglect. Weir cannot support the motion. Brinson would be in agreement, he does not have a lot of history. There is a concern that it will not handle the traffic if it is restored. Will this be an antique house or a usable durable building? Tobias states that there is an approved demolition permit on that building that he believes is still valid. He asks the ARB and Town Council, why the rush to save if they are asking why there is a rush to demolish. Weir asks if that wording was in the guidelines, permits are not grand-fathered under a particular set of guidelines.

**Brinson-Yes, Tobias-No, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-No**

Tobias asks the Town Attorney if the council is bound by its own ordinances. The Town Attorney does not recommend that we not follow our own ordinances.

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**Cole** moves to instruct the Town Manager to work with Brinson and Lowery to find out what the requirements are for the Boys & Girls Club and get a ball park estimate on renovation, Brinson seconds;

**Discussion:** Weir comments that we should probably not limit it to one particular use. Cole amends the motion to get estimates to restore the building, no matter the use.

**Brinson-Yes, Tobias-No, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-No**

**Equinox – Scott Plein**

South Market Project. Mr. Plein has applied to Prince William County for a Comprehensive Plan Amendment. He would like the Town's input on his ideas.

**Shepherd of the Hills – Mark Olsen**

They are currently worshiping at Evergreen Vol. Fire Department. They are interested in the parcel located on Hunting Path. They ask the town for an interpretation of the ordinance is a church allowed in the B1 or is it a "public use". The Town Attorney says no it is not by-right in the B-1.

**Street-scape update**

The Town Attorney would like the Council to allow him to establish a contract with Mr. Dively, a condemnation attorney. His hourly rate is \$205. The Mayor has a feeling that there has to be some kind of ball park cost from him.

\*\*Holly amends deadline for Pedestrian ideas to the end of January.

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**Weir** motions to enter into closed session pursuant to 2.2-3711 A(3), Cole seconds;  
**Tobias-No, Cole-Yes, Scarbrough-Yes, Kenworthy-No, Weir-Yes, Brinson-Absent**

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**Tobias** motions certification of closed session that the only items discussed were those noted in the motion to enter.

**Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent**

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**Cole** motions to authorize the Town Manager to hire the condemnation attorney for the purpose of filing certificates with an expenditure of up to \$2,500 from the line item non-reimbursable street-scape funds, Weir seconds;

**Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent**

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**Earmark Pedestrian Funds**

**Cole motions, Scarbrough seconds;**

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HAYMARKET, VIRGINIA, that the Mayor, or in her absence, the Vice Mayor, are hereby authorized to execute on behalf of the Town, intending to be legally bound thereby, all documents, agreements and other written instruments required in the administration of the Pedestrian Improvements Project and all grants, funds and funding related thereto, including, among others, the Standard Project Administration Agreement for Project Number 0055-233-045.

THIS RESOLUTION shall be continuing in nature, and any party may rely upon a copy hereof attested by the Clerk of the Town together with the Clerk's certificate that such Resolution has not been revoked or amended.

**Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes**

**Virginia Retirement System**

**Tobias moves the resolution, with the understanding that we do not have any plan 1 employees,  
Scarbrough seconds;**

**RESOLUTION 20110124-2A**

**Authorization to Pick-up the Employee's Contribution to VRS  
Under § 414(h) of the Internal Revenue Code For Plan 2 Employees**

WHEREAS, the Virginia General Assembly, in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2 Employees"). The legislation stipulates that Plan 2 Employees will pay their 5 percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h) on a pre-tax basis; and WHEREAS, the legislation allows certain employers, including the Town of Haymarket to pick-up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary; and WHEREAS, the election to pick-up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary shall, once made, remain in effect for the applicable fiscal year (July 1 - June 30) and shall continue in effect beyond the end of such fiscal year absent a subsequent resolution changing the way the 5 percent member contribution is paid; and WHEREAS, employee contributions that are picked-up as an additional benefit not paid as salary are not considered wages for purposes of VA Code § 51.1-700 et seq. nor shall they be considered salary for purposes of VA Code § 51.1-100 et seq.; and WHEREAS, the Town of Haymarket desires to pick-up and pay its Plan 2 Employees' member contributions to VRS as an additional benefit not paid as salary in an amount equal to (1%) (2%) (3%) (4%) (5%) **(Circle One)** of creditable compensation; and WHEREAS, VRS tracks such picked-up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS.

NOW, THEREFORE, IT IS HEREBY RESOLVED that effective the first day of January 2011, the Town of Haymarket shall pick-up member contributions of its Plan 2 Employees to VRS as an additional benefit not paid as salary in an amount equal to **(5%)** of creditable compensation subject to the terms and conditions described above; and it is further RESOLVED that such contributions, although designated as member contributions, are to be made by the Town of Haymarket in lieu of member contributions; and it is further RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the picked-up contributions made by the Town of Haymarket directly instead of having them paid to VRS.

RESOLVED that this resolution is adopted upon the express condition that the employer has only Plan II employees and no (zero) Plan I employees.

**Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Yes**

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**Tobias motions Scarbrough seconds;**

RESOLUTION 20110124-2B

Be it hereby resolved that the Town of Haymarket, Virginia, a political subdivision of the Commonwealth of Virginia, acting by and through the Town Council, does hereby elect to have those of its employees who are regularly employed full time on a salary basis and whose tenure is not restricted as to temporary or provisional appointment to become eligible to participate in the Virginia Retirement System, effective January 1, 2011, as set out in Title 51.1, Chapter 1, Section 51.1-100 through Section 51.1-168 of the Code of Virginia, as such Code has been or may be amended from time to time. The Town agrees to pay the required employer cost for participation of its employees in the Retirement System for no (zero) service for the Town prior to the effective date, for which credit is authorized and established on forms prescribed by the Retirement System, and for membership service in the System after such date, and also to deduct from the employees' wages the amounts required by law. The Town has only Plan II employees and no Plan I employees.

Now, therefore, Gene Swearingen, Town Manager, and Jennifer Preli, Clerk, are hereby authorized and directed in the name of the Town to execute any required contract in order that said employees of the Town may become eligible to participate in the Virginia Retirement System as provided in the aforementioned sections of the Code of Virginia. In execution of any contract which may be required the seal of the Town shall be affixed and attested by the Clerk and said officers of the Town are hereby authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the Town and its employees for this purpose.

Funds come from the 3.5% reserves budget line item

**Tobias-Yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Yes**

\*\*Tobias wants the Town Council to start thinking about FY' 12 employer/employee contributions,

**Tobias talks about item #14 – Bids for Demolition of the Utterback House**

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**Tobias motions to accept the bid for demolition in an amount not to exceed \$9,000, Weir seconds; Point of order, Mr. Brinson is not present now and voted earlier in the night. Tobias notes that the actual bids were not discussed. Mayor asks for clarification, when the permit was sent to the ARB, Tobias notes that the previous motion was to send the COA**

Item #14 was specifically called out of order when Mr. Brinson was present. He is specifically interested in this topic and it should not be discussed. Mayor states that the item has been handled, this is out of order. Tobias says the bids haven't been discussed tonight.

Per the Town Attorney, the vote tonight to extend time to the ARB for a decision on the appropriateness of demolition of the Utterback house is, by implication, taking up item #14.

\*\*Add to February agenda Winterham & Bloom bonds

**Mayor**

Town should consider doing something for memorialize Alan Gossom. She would like some ideas from Council.

**Weir**

Nothing

**Tobias**

Requests that the Utterback house bids be on the agenda for February.

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Tobias motions to allow for the Utterback house bids for demo to be on the agenda, Feb. 7, 2011 for consideration and discussion of the bids, Weir seconds;  
Tobias-Yes, Cole-No, Scarbrough-No, Kenworthy-Yes, Weir-Yes

Tobias would like for the meetings to be recorded  
\*\*Agenda item

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Tobias moves that the topic of recording of all meetings and all other meetings of the Town for discussion consideration and possible action and that the TC & TM suggest equipment acquisition, Weir seconds;  
Ayes: 5  
Nays: 0  
Absent: Brinson

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CVS now open sign, did we give them an extension? The permit was denied by the PC. Marchant  
Tobias moves to allow the TP to pursue action against the CVS "now open" sign, Weir seconds;  
Ayes: 5  
Nays: 0  
Absent: Brinson

**Weir**

February 15 to provide a proposal to Stirrup for the BOCS for Annexation/boundary adjustment.

Cole moves to enter into closed session pursuant to 2.2-2711 A(3) for discussion of boundary adjustments and/or annexation, Weir seconds;  
Tobias-yes, Cole-Yes, Scarbrough-No, Kenworthy-Yes, Weir-Yes, Brinson-Absent

Weir motions certification of the closed session that the only items discussed were those noted in the motion to enter, Cole seconds;  
Tobias-yes, Cole-Yes, Scarbrough-Yes, Kenworthy-Yes, Weir-Yes, Brinson-Absent

**Kenworthy**

Lighting in Town needs replacement/repair. He would like letters to go to property owners for parking lot lights out.

**John Bennett**

He recommends an amendment to 58-260 (6). This is the code section that deals with a special use permit needing to reapply annually in the I-1 district. He recommends we refer this to the Planning Commission.

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**Weir motions to request review and recommendations from the Planning Commission on Haymarket  
Town Code Section 58-260 (6) Requirements for Special Uses in the I-1 District, Cole seconds;**

**Ayes: 4**  
**Nays: 1 Tobias**  
**Absent: Brinson**

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**Scarborough motions to adjourn the meeting of January 11 continued to January 24, 2011 at 10:25 p.m.,  
Kenworthy seconds;**

**Ayes: 5**  
**Nays: 0**

Submitted:

Approved:

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Jennifer Preli, Town Clerk

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Pamela E. Stutz, Mayor