

Town Council Regular Session, September 10, 2001

Mayor Shepard left at 11:08 p.m.

Terry Karnes says she didn't come as Jack's friend but she and her neighbors are incensed with the actions of council.

Recess

Meeting to be continued Sept. 19 at 7:30 p.m.

**TOWN COUNCIL REGULAR SESSION CONTINUATION
SEPTEMBER 19, 2001**

MAYOR

John R. Kapp

ATTORNEY

John Arledge

COUNCIL

James Shepard, Vice Mayor

Nancy Bailey, PC Chair/Liaison

Tom Utz, Building Official Liaison

Mary Lou Scarbrough, ARB Liaison

Pam Stutz, Historical Comm. Liaison

Doug Mohr, Police Dept. Liaison

Mayor Kapp reconvened regular session at 7:33 p.m.

Policies and Procedures

Councilman Utz apologized to Jeannie Heflin, Robin Copenhaver and the Police Department and commending them for coming daily and making sure we run smoothly. Utz states no place of employment is easy and he thinks council actions and the mayor's actions make undue stress on the employees.

Regarding the Policy and Procedures handbook, Councilman Utz submitted a hand written letter stating he is not pleased with the council or mayor - he shows no favoritism and has tried to be fair with all and has tried to believe what has been said and took it as the truth. He can't make a judgment since he wasn't there [while the policies were formed]. At the meeting at Greenhill Crossing recreation center he was taken aback as it was well orchestrated, things were planned out, things of such magnitude would have been at a full meeting with the mayor and vice mayor present. He should have declined and voted against the policies. He intended to talk things out and clear the air. Regardless of what you feel about the job the mayor has done the policies strip the mayor. He thinks the mayor or future mayor should have the ability to call things up and make changes. He thinks the treatment of the clerks is wrong; the mayor should be able to come into this office and communicate.

Councilman Utz says if you don't like the way the mayor runs this ship, you have every right to have your say. It would be wise for council to support him putting aside our own agenda. Looking back if the mayor didn't support the best effort it will come out. If you aren't happy with the way the mayor runs things let's support him, put differences aside and come next

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election state your reasons he is not a good mayor and let the vote [decide]. Let us all support the mayor no matter what it is.

Councilwoman Scarbrough states Mayor Kapp said he wants to work on it [policies and procedures]. She suggests Councilman Utz, Mayor Kapp and Vice Mayor Shepard, as individuals, sit down and go through it. We have a lot of business to take care of, not go over this tonight, not spend two or three hours on it tonight but at a later date.

Councilwoman Scarbrough agrees with Councilman Utz, we need to work together. She states council asked for a retreat, before policies and procedures, maybe council should go on a retreat to work on the policies and procedures. Atty Arledge says it needs to be at a public meeting.

Councilwoman Stutz thinks we need guidelines. She states the mayor is supposed to be relying on council. She knows things happen that she questions that need answers. She asks if Ms. St. Clair would be available. Atty Arledge says she [Ms. St. Clair] recommended a two-day retreat and would not consider anything less. Councilman Mohr says she will only work on relationships and not policies and procedures.

Councilwoman Scarbrough suggests a two-day retreat and then an open session for policies and procedures. Mayor Kapp wants it [retreat] locally. Councilman Utz states he doesn't think it matters. Councilman Mohr says Ms. St. Clair wanted it overnight and away as it changes the dynamics and people may get outside input if it is local. Councilwoman Stutz asks if everyone will commit to an overnight. Councilwoman Bailey says yes, Councilman Utz says yes, Mayor Kapp will not commit due to his wife's health. Atty Arledge will pursue with Ms. St. Clair.

Vice Mayor Shepard states it is important to take care of this. Atty Arledge says veto is on the exact policies and procedures, if modified it is a new matter. The vote requirement to go over mayor's veto is an exact motion. Council shall thereupon reconsider the resolution. Atty Arledge says at some point the council can reconsider the exact matter and vote on it. No time line is required. Councilwoman Scarbrough says we should try to work it out.

Mayor Kapp says if one word [in the policy and procedure] changes it would die. Atty Arledge says you reconsider and vote on it again. Councilman Mohr asks if council can amend the *original motion*. Atty Arledge says it is a new item, if you make substantive changes you start over. Councilwoman Bailey asks if it refers to "a word". Atty Arledge says no, if it changes the substance; it may be sent back for changes. The veto is on the exact same ordinance. Atty Arledge suggests reconsidering exact same policy and procedures and re-voting whenever, it doesn't have to be tonight.

Councilman Mohr thinks we should have the changes ready to vote on. Councilman Utz moves to veto, reverse the agreement, with our understanding we will get back to this without any preconceived ideas. No second

Councilman Utz moved to veto (throw out) rules and procedures submitted August 28 pending a work session, second by Vice Mayor Shepard. Councilwoman Stutz says he [Utz] doesn't have the right to veto. Councilman Utz amends motion to re-consider vote on policies and procedures, amendment second by Vice Mayor Shepard. Councilwoman Stutz asks to amend motion to plan

look at in the future. Councilman Utz moved to amend motion to there will be further discussion, second of amendment by Vice Mayor Shepard. Councilman Mohr says he has heard three people ask to reconsider this. Councilman Utz cannot make a motion to adopt this policy. Mayor Kapp says Councilman Utz can make any motion that he wants. Councilwoman Stutz says in order to keep the veto Mayor Kapp wants you to have "reconsider the resolution" in the motion. Councilman Utz moved to bring up policies and procedures for reconsideration, second by Vice Mayor Shepard. Councilwoman Bailey asks Atty Arledge in the mayor veto letter, did he have to address each item voted on. Atty Arledge says he doesn't think the mayor has to be detailed simply has to state his reasons to veto as long as it is clear as a veto. Councilman Mohr states it doesn't identify what he is vetoing. Councilman Mohr states he doesn't see anything in the town code or state code that allows you to blanket veto. Atty Arledge says he vetoed what he was presented with objections entered by the town clerk in the minute book at length.

Yeas: Utz, Shepard. Nays: Bailey Scarbrough, Stutz, Mohr. Mayor Kapp states policy and procedure will not be reconsidered it will sit in veto status.

Vice Mayor Shepard left to go to work at 8:07 p.m.

18th Century Haymarket, Lot 14

Owners and neighbors would like to put storm pipe in the storm ditch and have a normal back yard. Mayor Kapp asks council to approve \$200 for engineer study. Ms. Karnes told them Mr. Lowery said he would not allow them to put a bridge over there. Mr. Lowery says there is an easement there.

Councilwoman Scarbrough asks why it wasn't put underground. Councilman Mohr says the old site plan would not allow that, it would be a substantial cost to builder and he wouldn't do it. Mayor Kapp says the rock slows down the flow of water and allows the water to permeate.

Councilwoman Stutz asks who owns the easement. Councilman Mohr says it is Washington Street storm water going through there. Councilman Mohr suggests the group needs to get a letter together. Atty Arledge concurs it is all property owners who have an interest. Mayor Kapp says get an agreement with everyone that abuts against the area. Councilwoman Stutz asks if it is just the people it affects, if the pipe abuts the easement they must all agree. Councilwoman Stutz moved to authorize Mr. Payne, engineer, to investigate the possibility to convert drainage area, second by Councilwoman Scarbrough. To be expensed to the capital improvement budget line item. Councilman Utz asks after determination by the engineer who would assume the cost. Councilwoman Stutz states it would be the residents. Terry Karnes says that is what they are asking. Atty Arledge says it would be a modification to the site plan, cost by homeowners. Storm water easement is by property owners. Councilwoman Stutz amends motion to "cost to implement will be with the homeowner's". Councilman Mohr says it was done before [this was an old site plan council approved] and whose responsibility was that. Fred Price was the answer. Yeas: Mohr, Bailey, Scarbrough, Stutz, Shepard. Nays: None. Motion carried by 5/0 vote.

Mayor Kapp will contact Mr. Payne to do the work. Mr. Luersen asks for a letter on what they have to do. Councilman Mohr says until the engineer will get back to council; there is nothing to do except get property owners agreement.

Police Department

Councilman Mohr agreed on Power 832 security system, camera inside the PD and the shopping center, wiring is in town hall already. \$25 monthly monitoring fee with alternate numbers. This is a reasonable price, which includes a second camera system. Four-camera system, full color with ability to transmit to television, outside coverage. Councilman Mohr says our building has not been looked at for fire system. He will provide a camera for Route 55; we would need to put on our web site the service is provided by Orion.

Camera on Route 55 from Sheetz toward Route 66. Councilman Mohr requests an upgrade to digital, a mini DV system in PD. He provides each a plug in system and everything for town hall and fire systems. We would have to pay for 832 for PD. Chief's office one zone, evidence room one zone.

Councilman Mohr asks for approval of (1) \$25 month for monitor fee on five year contract with semi annual payments, (2) out of PD build out funds [ceiling money] and exchange for 832 system, about \$1500 total install pull \$1500 from \$7000 for ceiling installation. Information outstanding for long-term agreement, which will be coming. Councilman Mohr states PWC will help the PD with grants, also there is a hub out here for new weather and traffic - TV, VDOT, etc. Councilman Mohr says the two new vehicles have digital camera outside the car and the chief will have the ability to monitor his officers on the road.

Councilman Utz asks Councilwoman Scarbrough what caused this inquiry for cameras. Mayor Kapp says Dave Taylor came in and offered to donate a system in the town hall. Councilman Mohr says he has also given us gas, carbon monoxide detector and monitoring, etc. Mayor Kapp says the gas line has been capped off.

Councilman Mohr says cameras are costing Mr. Leaberry \$16,000 which he is giving the town as a gift. Councilwoman Scarbrough asks if we can approve \$7000 for the ceiling. Yes.

Councilman Mohr asks Atty Arledge if he has gone over the security contract. Atty Arledge states yes, it is a lengthy document and geared to retail, there is payment back and further trading the security for rent. He thinks there needs to be more clarity of security services. Atty Arledge is concerned with the trade off of security services for rent language. Councilman Mohr says the security system is for town hall and PD adding additional four cameras for the rest of the facility on parking areas for safety.

Councilwoman Stutz states the work Councilman Mohr has done is fantastic. The security man was to put a contract in writing, she has nothing in writing. \$25 is that each camera or for all the cameras, what is in writing? Councilman Mohr says Mr. Taylor's contract has cost proposal of all the parts. Councilman Mohr has not had him write the contract until the council approves this. Mayor Kapp suggests council has a contract by October 1. Councilwoman Stutz wants contract as part of our packet. Councilman Mohr asked Mr. Taylor to forward contract to Atty Arledge since it was lengthy. Mayor Kapp asks council to waive deadline for submission of tomorrow since it doesn't need to go to PC and ARB. Councilwoman Stutz only wants an outline of what he will do.

Jordan Lane - garage business

Councilman Utz thinks this is a different person operating a business. The Clerk says that has been a business for three years. Mayor Kapp says we need the building official and Police Dept. up there.

Councilman Mohr will take this to the police. Councilman Utz will explain it to Councilman Mohr. Councilman Mohr asks Atty Arledge if it requires a dollar amount [of sales] to be a business. Atty Arledge says gross receipts have to be filed no matter what. Councilman Mohr will speak with the PD. Councilman Mohr says PD has to document continuous business activity. Atty Arledge says as long as he has more than one transaction it is a business. Councilman Mohr does not want to send PD down there and there be a problem. Councilman Utz asks if the PD and Building Official should go together. Councilman Mohr says the Building Official has authority in his realm and PD doesn't need a second person to verify work. Councilman Mohr asks if the PD can shut down the business or is that the Building Official. Atty Arledge says that comes from zoning and planning department. Atty Arledge to look into it.

Planning Commission

Councilwoman Bailey states the PC requests a public hearing on the pipe stem lots in R-2 district. Also need public hearing about soliciting on benches, poles, planters, etc., request ordinance on car wash in B-2 district be withdrawn since Mr. King has not shown up on two occasions; the PC still sticks by recommendation to deny adoption, if council wants to allow it should be as a special use.

Councilman Mohr states regarding car wash the PC excluded large trucks. Councilwoman Bailey states PC recommends to remove completely since applicant hasn't come forward. Councilwoman Bailey says town council didn't vote on it and due to the traffic the PC doesn't want it. Councilwoman Bailey states Mr. King has missed three PC meetings with a personal invitation for his attendance. Councilwoman Bailey said she spoke to Quarles who did not give him approval to have a car wash. Councilwoman Stutz says the public hearing excluded truck wash, the paperwork she had included large trucks. Councilwoman Stutz wants to be sure this would remove the whole use. Yes, Atty Arledge says it was passed back to the PC for review. Councilwoman Bailey wants to take it off the agenda.

Councilwoman Bailey moved to not adopt the car wash ordinance in the B-2 district, second by Councilwoman Stutz.

Councilman Utz thinks it is a great idea excluding the truck, RV, camper, boat with the motion would it exclude a car wash. Councilwoman Stutz states maybe by special use permit. Councilman Mohr thought we were only excluding construction equipment. Councilwoman Scarbrough states the intersection is busy enough without tractor-trailers and heavy equipment; it is an accident waiting to happen. Councilwoman Bailey would not have a problem elsewhere but not at that intersection. Councilman Mohr asks Atty Arledge about enforcing things of a different size. Atty Arledge says if the bay will take it they can put their quarters in the machine and go through. Who will enforce it, he asks. Councilman Utz says we would have to limit how high the bay can be to restrict the vehicles that can fit.

Yeas: Mohr, Bailey, Scarbrough, Stutz, Shepard. Nays: None. Motion carried by 5/0 vote.

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Signs

Town Center signs

The signs are too large, Mr. Newlon is going back to re-do.

Police Dept. sign

Councilman Mohr asked if it has been designed. No, was the answer.

Food Lion, 6701 Leaberry Way, 40,214 square feet, retail space – letter size okay.

Councilwoman Stutz asks a letter be sent.

Site Plan

14890 Washington Street – requires shared parking. Two reports submitted for review. Atty Arledge states you can allow as long as the parking is sufficient for the uses. Applicant does not want to connect the parking lot. The gray apartment building has more than ample parking for their six apartments. Councilman Mohr asks if this includes street parking (two spaces). Councilwoman Stutz states they can't include street parking. Councilman Utz states depending on time of day who has the right of way; if we do this we should limit to each case. Councilman Mohr asks if we can do a shared parking under a special use only. Atty Arledge suggests council consider a requirement for engineering study for uses for parking that do not conflict for the situation. Councilwoman Bailey says it would be on a case-by-case basis. Councilman Mohr asks if we would be changing our rules. Atty Arledge states the problem is do you have enough of a shared use to not have a conflict. Councilwoman Bailey says for this property she would say yes, she has studied this property; when they get finished they will have eight designated spaces. Councilman Mohr asks how many places they leave at gray house. Councilwoman Bailey doesn't know. Councilwoman Stutz says the gray house requires fifteen parking spaces. Councilwoman Bailey says they do not have fifteen spaces. When they expand the building it will be mostly be for people who stay out in the field all day. She states it would be up to the property owner to resubmit their schedules for the property any time the property is sold or use changes. Councilwoman Stutz says that is not necessarily true in a commercial property since you don't rezone. Atty Arledge says you can't put restrictions on the business license. He states either change of use with a site plan or rezoning. Councilwoman Bailey says if apartments don't work out on second floor they can't change to an office use.

Councilwoman Bailey says according to the ordinance you need 2.5 spaces per apartment.

Councilwoman Bailey says they [applicant] will write up their lease for only one car per apartment. Councilman Utz says Ms. Contrucci states retail parking figures use the day after Thanksgiving Day standard. Councilwoman Stutz suggests there be one designated space per apartment. Mayor Kapp says you are defeating the shared parking purpose.

Councilman Utz believes each apartment should be allowed two parking spaces. Councilwoman Bailey says they are all one-bedroom apartments. Mayor Kapp states if we lowered the requirement from 2.5 to 2 spaces for apartments you are still short.

Councilman Mohr asks if all new construction has to be up front on the street. Mayor Kapp says this is an attachment to the existing building. Councilman Mohr asks if there is a cross connection. Councilwoman Stutz says this will be an addition to the back. Mohr says the space in front could be parking.

Councilwoman Stutz asked if they would be willing to reserve parking spaces. Councilwoman Bailey states no. Councilwoman Mohr says you have to have a way to enforce it. Councilwoman Bailey says it would be by stickers, they [property owner] would enforce it.

1937 Washington Street, parking lot between First Va. Bank and Fire Dept., office building with five apartments on top - they want a big parking lot shared with 14951 and 14945 Washington Street - 14 spaces - 3,000 square feet office = 12 spaces, apts. 2.5 = 39 spaces required total. Now there are 30 parking spaces; the new building, 2 spaces have to be designated handicap and other can be in corner up front.

Councilman Mohr states the Old Bank Building seems to be off. Councilwoman Bailey says Mr. Payne said building is 45' x 70' - more than 3,000 square feet. Councilman Mohr states that is only one floor. Bailey says our code does not specify net or gross floor space. PWC says 75% is net. Councilman Mohr asks if that were okay would we have to adopt the calculations. Atty Arledge says it is whatever the council wants in the code.

Councilwoman Utz recommends consider what ordinance requirement the council wants, two spaces to each apartment - they have stickers, guaranteed parking when they are there and businesses who come in they may have less parking; they will have to willing to accept it. Our town residents are the priority. Councilman Mohr says that doesn't help when the gray house is substandard with not enough parking. Councilwoman Stutz says still they don't have enough spaces for yellow house. Councilwoman Stutz says you need 14 spaces, you are suggesting you take away an apartment or decrease your space. Councilman Utz says he wants two parking spaces per apartment at all times. Councilwoman Stutz says you are not sharing parking then and that does not work. Councilman Utz states that is exactly what he is saying; he wants each apartment guaranteed two parking spaces.

Councilman Mohr says he used to live in the gray house and while he lived there it [parking] was always an issue. It was never not a parking issue with PW's and the church overload parking. We have this all over town. There is not enough parking for what is there now. He asks to see what we can do federal grant wise for a parking deck. He says we haven't addressed the unpaved parking.

Councilwoman Stutz says, regarding town center parking, Mayor Kapp was going to talk to Falls Church Electric and found out they don't want to do anything. Mr. Finney says he wants \$200,000 for his lot.

Councilwoman Stutz asked if this application came in March. The Clerk states the applicant withdrew the application for several months. Councilwoman Stutz says this is a 100% ratio on the yellow house. She asks what PWC ratio is. Councilwoman Bailey says 1/250 feet office spaces and 1.5 spaces per one bedroom apt. Atty Arledge says shared parking is to put cars in private parking and not push them out on the road. Councilwoman Stutz says the applicant would have to verify; they need 13 spaces they have 8 at this address; Gray [apartment] house requires 15 spaces only 9 there.

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Mayor Kapp asks how many apartments are there; also need to know how many parking spaces are at the gray house. What is the square footage of Old Bank Bldg? Are we using gross or net floor space? Council thinks net is fair. Councilman Mohr asks if we need to state that in policy. Atty Arledge says this requires a zoning text amendment.

Councilwoman Bailey says Mr. Contrucci has purchased the post office property and lot next to it. The ordinance permits off site parking within 600' of property. They can park there. Councilman Mohr asks if that is corner to corner? Councilwoman Bailey says the office is closer to the off site parking than the new property. Councilwoman Stutz says we could require them to handle overflow at the post office for the new buildings. Councilman Mohr says they would have to designate parking for residents.

Councilman Mohr says to clarify Mayor Kapp says zoning text amendment is required. Councilwoman Stutz says they need to be told it will be the December meeting for public hearing. Date for work session will be scheduled at October 1 meeting. Councilman Mohr asks Atty Arledge about tracking off site parking. Atty Arledge says they would have to designate off site parking and reserve that space for the facility and this is a part of the site plan approval process.

Councilman Utz says he wants two designated parking spaces for residential use, per apartment.

84 Lumber, 15151 Washington Street – Councilwoman Bailey says a 10' buffer is required for B-2 to I-1 district. Councilman Mohr asks why we want a pond in front – can't it be moved elsewhere. Atty Arledge says in the site plan approval you can say where the storm water detention pond can be located. Councilwoman Bailey says we don't have anything in the ordinance that says new buildings have to be up front on the street. Councilman Mohr says design manual gives the council authority to regulate where pond is. Councilwoman Bailey will talk to them.

Councilwoman Stutz asks why we've waited this long to tell them. Councilwoman Bailey says they revised the plan. Councilman Mohr said he told them to read the ordinance that the pond will not be on the front. Councilman Mohr says under PWC regulations they fence the pond, they don't have to maintain the pond. He says PWC took the authority away from the towns. Councilwoman Stutz says we need to be careful not to wait to tell them until it is too late. Councilwoman Scarbrough says that was already in the comments regarding the pond.

Sign permit

Food Lion, 6701 Leaberry Way, 40,214 square feet – 40,214 square foot grocery store – PC approved. Councilwoman Stutz moved to approve as per condition they agreed to attachment, second by Councilwoman Scarbrough. Yeas: Mohr, Bailey, Scarbrough, Stutz, Shepard. Nays: None. Motion carried by 5/0 vote.

Architectural Review Board

Report submitted by Councilwoman Scarbrough.

Board of Zoning Appeal

No report.

Historical Commission

No Report

Building Official

No Report

New Business

Debbie Seffinga, \$21 check donated for Mayor Kapp's lunch with PWC executives -
Councilwoman Bailey moved to return the \$21 to Ms. Seffinga as the Mayor was never refused to be paid, second by Councilman Mohr. Mr. Mohr states, for the record to clarify for Mrs. Seffinga, the council was not sure they had the money at that time to pay the regular bills with the Guli contract and extra expenses. Yeas: Shepard. Nays: Bailey, Utz, Scarbrough, Mohr. Motion failed.

Councilwoman Stutz moved to deposit \$21 to the discretionary fund, second by Councilman Utz. Yeas: Mohr, Bailey, Scarbrough, Stutz, Shepard. Nays: None. Motion carried by 5/0 vote.

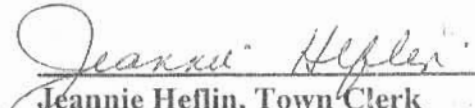
Formal notice to Shirley Kapp to address council about the letter from the Clerk and Mrs. Kapp's phone call to Councilwoman Bailey - Mayor Kapp states Mrs. Kapp does not want to pursue this after six months. Councilwoman Bailey brought up this issue as Mrs. Kapp has stated many times she has not had the opportunity to address council. Councilwoman Bailey invites her to come to council. Mrs. Leonard states she is present to represent Mrs. Kapp. Mrs. Leonard requested a personnel session at the last meeting and Councilman Mohr walked out.

Adjournment


Council adjourned at 10:40 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:



Jeannie Heflin, Town Clerk



John R. Kapp, Mayor