

BROADWAY TOWN COUNCIL

May 4, 2021

The Broadway Town Council met in regular session on May 4, 2021 in the Council Chambers of the Broadway Municipal Building. The following members were present: Mayor Timothy S. Proctor and Council Members Chad L. Comer, Leslie E. Fulk, Richard E. Fulk, Douglas W. Harpine (arriving late), David L. Jordan, and Beverly L. London. The following Planning Commission members were present: Kathy Boase, Steve Shifflett (via zoom), Eddie Long and Brenda Pultz. The following staff members were present: Town Manager Kyle D. O'Brien, Town Clerk Andrea Fulk (via zoom), Town Attorney Matt Light and Police Chief Doug Miller. Also in attendance were John Shipe, Cindy Grandle, Joe Adolph, Stan Laro, Nancy Laro, Brenda Showalter, James Hively, Karen Tusing, Donna Rhodes, Tim Schmoyer, Melinda Kephart and Jon Ernest

Mayor Timothy S. Proctor called the meeting to order at 7:00 p.m. with the Pledge of Allegiance followed by the invocation.

**Approval of Minutes and Bills:**

Chad L. Comer moved, seconded by Beverly L. London, to adopt the minutes of the April 6, 2021 session of Council with one correction to Street Vacation: Linden Avenue under roll call vote where Leslie E. Fulk voted, needs to be changed from Aye to Absent as he was not in attendance at the meeting, and to authorize payment of bills in the amount of \$391,753.22.

The motion was approved with the following recorded roll call vote:

Chad L. Comer	Aye	Leslie E. Fulk	Aye
Richard E. Fulk	Aye	Douglas W. Harpine	Absent
David L. Jordan	Aye	Beverly L. London	Aye

**Public Hearing: Franchise Agreement, Shentel:**

Mayor Proctor advised that the first item of business will be a Public Hearing on the Franchise Agreement with Shentel. He then requested Town Manager Kyle O'Brien to give a brief history on the Franchise agreement request and what it entails. Mr. O'Brien explained that according to Virginia Code §15.2-2100 and other Virginia law, the Town has the right to grant franchises to businesses to use the Town's property when such use will benefit the citizens of the Town. The request was made by Shentel to be allowed to install fiber optic cables within the streets and alley ways of the Town. A notice of intent was published in the paper by the Town with an invitation to the public to bid on the franchise. Mayor Proctor then opened the floor for public comment. Having received no comments, he closed the Public Hearing and asked for a Council recommendation.

Chad L. Comer moved, seconded by Richard E. Fulk, to adopt ***AN ORDINANCE TO GRANT A FRANCHISE TO SHENTEL FOR THE INSTALLATION OF FIBER OPTIC CABLES***, a copy of which is included in the minutes as Attachment A.

The motion was approved with the following recorded roll call vote:

Chad L. Comer	Aye	Leslie E. Fulk	Aye
Richard E. Fulk	Aye	Douglas W. Harpine	Absent
David L. Jordan	Aye	Beverly L. London	Aye

**Old Business:**

Mr. O'Brien reported on the following items:

- **Park and Pool:** The pool house is one of the last remaining projects to be completed in

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the five year plan of the community park. Mr. Dale Cupp has prepared a draft of renderings that offer some much needed updates while using the existing structure. The Parks and Recreation Committee will continue moving forward with the intention to bring before Council and to bid this summer.

- **Relief to Residents and Businesses:** At the last meeting, the Council went on record allocating a portion of the stimulus act funds to the existing water accounts in the amount of \$750 and offering grants to the Town's local businesses. Although these funds have not been received yet, the Town is anticipating beginning this process at the July water billing,
- **Old schoolhouse:** This is an ongoing project.
- **Lot beside the Public Works facility:** The Town has completed the negotiation phase and will come to terms with the owner, based on the appraisal.
- **Budget:** The Finance Committee has been focused on the Federal Stimulus Funds and the Fiscal year budget is nearing completion. The public hearing for the budget will be held at the regular June Council meeting, including an amendment for the Stimulus Act Funds. There will also be a special meeting in June to adopt the budget and the amendment.
- **Rail Trail:** This project is looking promising. State Senator Emmet Hanger arrived last week for a presentation and U.S. Senator Tim Kaine will be arriving to also view a presentation. This will have a huge impact on the Town. It is a multi-jurisdictional project that will need federal and state help. All steps are headed in the right direction, but it will take time.

Councilman Douglas W. Harpine arrived for the remainder of the Council Meeting.

### **Joint Public Hearing: Rezoning Sunset Drive:**

Mayor Proctor stated the next item on the agenda is the Public Hearing for the Rezoning of a property on Sunset Drive. He requested Mr. O'Brien to give an overview of the request.

Mr. O'Brien began by stating the property was annexed into the Town in 2009 with no plans for development at that time. The property in question is owned by Mac Nichols and Keith May and at that time the future development plans were unknown, so the Council zoned it C-1. C-1 zoning is very restrictive and would require any proposed development plan to come before the Council for rezoning approval. The current rezoning request by the developer is to rezone the 9.63 acres from C-1 to R-1, which will allow for a single-family development with approximately 21 lots.

Mayor Proctor opened the Public Hearing and asked each person to state his/her name and address and noted that each speaker will be limited to two minutes. He then invited anyone wishing to speak in favor of the proposed rezoning, including the applicant to do so.

Jon Ernest, representative for Keith May who unfortunately was unable to attend, stated that he is available to answer any questions regarding the zoning request.

Mayor Proctor then invited anyone wishing to speak in opposition to the request.

Cindy Grandle began by thanking the Council for the opportunity to speak. She read a letter

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(Attachment B) that has been signed by 25 landowners on Sunset Drive expressing concerns including increased traffic, unimproved road, lack of sidewalks on Sunset Drive, and if it is compatible with the Town's Comprehensive Plan.

Other residents in the area, including Brenda Showalter, Nancy Laro, and Karen Tusing, voiced concerns about traffic, the impact the development will have on schools, the lack of sidewalks, and the proximity of farms to the proposed development.

Mayor Proctor asked Mr. O'Brien to address some of the questions and concerns.

Mr. O'Brien addressed the questions by stating that the County encourages growth and development near and around towns in order to have adequate services, such as water and sewer. The annexation agreement was developed with the intent that when a property is annexed into the town it is done so with the understanding that it will be developed. Many of these same concerns were raised 10 years ago and a very detailed traffic study was completed by an independent firm that the town requested, and the developer paid for. He stated that this could be re-visited, and he does not feel an additional 21 houses will have that drastic of an impact.

Mr. O'Brien added that the Town has requested sidewalks, has lowered speed limits and police are patrolling this area more. He stated he is not promoting the development; however, the town is aware that development in this area is inevitable and the lowest density of development is R-1, which is proposed.

Mayor Proctor noted that it is his understanding that in following up on the County/Town annexation agreement, if development is denied, it must be for a serious reason.

Town Attorney Matt Light concurred that when the property was requested to be annexed, the Town was required to take serious consideration in determining its development.

Mr. Ernest advised that they are working with VDOT to assure that the development will meet VDOT standards, the same of which is mirrored by the Town. Additionally, he added that it is not the intent to hurriedly develop this property as they plan to build out as the housing market demands. He also noted that this development is very low density with the most being two units per acre.

Mayor Proctor asked if there were any other comments.

Neighboring property owners concluded that although their properties are in the County, they are in close proximity to this development and feel that the Town should take a very close look at their concerns and its impact. A question was also raised as to why it has to be decided now.

Mr. Light reminded everyone that the Planning Commission has 60 days to act on the request; and if no recommendation is made, it can then go directly to the Council for consideration.

After confirming there was no one else in attendance wishing to speak, Mayor Proctor closed the public hearing and asked for a recommendation of the Planning Commission.

The Planning Commission then convened and after a brief discussion regarding the public concerns mentioned involving traffic safety and the schools capacity. Steve Shifflett moved,

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seconded by Brenda Pultz, to approve the recommendations to rezone the proposed development on Sunset Drive to R-1. The motion was approved with the following recorded Planning Commission vote:

Kathy Boase	Nay	David Jordan	Aye
Eddie Long	Nay	Brenda Pultz	Aye
Steve Shifflett	Aye		

Mayor Proctor then invited Council action.

Having heard the Planning Commission's recommendation to change the zoning from C-1 to R-1, David L. Jordan moved to approve the rezoning request and adopt an Ordinance approving same. The motion was seconded by Douglas W. Harpine, in order to move into the discussion phase on this motion.

Council discussion included re-visiting the traffic study that was completed years ago, and get an updated traffic analysis, as well as contacting VDOT to request additional improvements to Sunset Drive.

Councilman Leslie Fulk voiced concerns about the annexation process, in general, and the challenges faced by the Town's ability to make sure that all the needs associated with development are met, including schools, traffic, infrastructure.

Several members acknowledged that most likely, this development will happen, but they feel additional time is needed to assure that neighboring property owners concerns are considered.

Mayor Proctor encouraged residents to contact VDOT to pursue highway improvements in this area.

Douglas W. Harpine offered a subsidiary motion to table consideration of the motion to adopt the ordinance, seconded by Beverly L. London. The motion was approved with the following recorded roll call vote:

Chad L. Comer	Aye	Leslie E. Fulk	Aye
Richard E. Fulk	Aye	Douglas W. Harpine	Aye
David L. Jordan	Aye	Beverly London	Aye

The Council then had a three-minute recess, prior to re-adjourning the meeting.

**Committee Reports:**

**Parks & Recreation Committee:**

It was reported that the pool is in the process of being filled and should be complete over the weekend. There are some minor repairs that will be addressed after the pool has closed for the season. Councilman Leslie Fulk had questions concerning the recent news of a chlorine plant burning and if it will affect what is needed to maintain the pool. Mr. O'Brien responded and stated he believes this will not affect the pool. Chairman Harpine stated the pool house drafting looks good and also inquired about what the next step will be for this project, Mr. O'Brien stated any modifications needed to the renderings will be turned into Mr. Cupp for revision and hopefully will be done with the project by the end of winter.

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**Finance Committee:**

Chairman Richard Fulk requested a meeting be scheduled for next week. It was announced that a Parks and Recreation committee meeting will be held Monday morning 5/10/2021 at 9:00 a.m., followed by Finance at 9:30.

**Personnel/Police Committee:**

Mr. O'Brien and Chief Doug Miller both stated there was nothing to report; however, there has been some personnel changes due to the resignation of Sgt. Larry Good. Officer Jason Fulk will be promoted to Sergeant due to his seniority in years of service, his history with the town and his personality is fitting for the job. The Town will be hiring a new part time officer who works for the Sherriff's Office. Chief Miller stated another change that will take place is the retirement of K9 Officer Pogo. As of July 1, he will need to be retired due to the recent changes to the drug laws. Councilman Harpine questioned if Officer Pogo could be used in another state and does the Town need to acquire another canine. Chief Miller responded by stating other states will soon be adopting the new laws and he will once again be deemed unusable. He also stated that he feels the Town does need another canine as K9 Officer Pogo has been very successful in aiding the Officers with their work. A copy of the police report for the month of April is included in the minutes as Attachment C.

**Streets & Properties Committee:**

No report.

**Utilities Committee:**

No report. A copy of the water production report for the month of April is included in the minutes as Attachment D.

**BHP:**

Council representative Chad Comer stated that the kids fishing day was perfect and they have decided to schedule the Red, White, and Brew for July 10<sup>th</sup>.

**Planning Commission Report:**

Council representative David L Jordan stated that the only matter discussed by the Commission was the Sunset Drive rezoning request.

**New Business:**

There is no new business.

**Public Comment:**

No public comment.

There being no further business, the meeting was adjourned.

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Timothy S. Proctor Mayor

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Andrea M. Fulk Clerk