

**REGULAR MONTHLY MEETING OF THE STEPHENS CITY TOWN COUNCIL**  
**Tuesday, November 1, 2011**  
**7:30 p.m.**

Mayor Joy Shull- Gellner called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance.

Council member Harter offered the invocation.

Roll call showed the following present:

Vice Mayor Linden A. Fravel, Jr., Councilmember Bowers, Council member Joseph Grayson, Council member James Harter and Council member Joseph Hollis  
Absent – Council member Martha Dilg

Staff present: Mike Kehoe, Town Manager; Brian Henshaw, Town Planner/Asst. Town Manager; David Griffin, Town Attorney; Chief Charles Bockey, Police Department; Dianne MacMillan, Town Clerk; Shannon Rothemich, Acting Town Treasurer

Press: None

Guests: Adrian O'Connor, President, Newtown Heritage Festival; Aaron Whitacre

**AGENDA**

On motion by Vice Mayor Fravel the Agenda for November 1, 2011 was adopted by consensus.

**PUBLIC COMMENTS**

Mayor Shull opened the floor for public comments on any topic not on the agenda. There were no comments.

**PUBLIC HEARINGS**

A. Town Code Chapter 11, Music – Repeal and Re-enact.

Mayor Shull-Gellner opened the public hearing for comments on changes to Chapter 11 of the Town Code. There was no response from those present and the public hearing was closed.

B. Amendment to the Town Zoning Ordinance – Retirement Community District R-4.

The Mayor opened the public hearing for comments on the addition of a Retirement Community District R-4. There were no questions from those present and the public hearing was closed.

C. Changes to the Town Charter – proposed change for date of Town elections.

The Mayor opened the public hearing for comments on the proposed change of

election date from May to November. There were no questions or comments from those present and the public hearing was closed.

**MINUTES – Regular Meeting of October 4, 2011**

Council member Hollis moved for approval of the minutes of the regular monthly meeting of October 4, 2011 and the motion carried with the following vote:

Recorded Vote:

Vice Mayor Fravel	-	Aye	Nay - None
Council member Bowers	-	Aye	Abstain - None
Council member Grayson	-	Aye	Absent-Council member Dilg
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

**TREASURERS REPORT – Shannon Rothemich – Acting Treasurer**

The Mayor said the acting town treasurer was present and could answer any questions from the Council. Council member Hollis noted that since she had been with the Town, the total net had grown so it was good to have her. Shannon Rothemich reminded them that it was tax season. The Treasurer’s report was accepted as presented for information.

**POLICE REPORT – Charles Bockey, Chief**

Mayor Shull-Gellner announced that the members had Chief Bockey’s police report for information and asked if there were any questions for him. Chief Bockey reported that about a year and a half ago there had been complaints about a dangerous intersection at Mulberry St. and Locust Street. He said that after study by VDOT, the State Police Department and the Town’s Police Department it was determined that the intersection was not unsafe. He added that VDOT made changes to the intersection by adding a stop strip at the Mulberry Street stop sign and lined the street with double yellow solid lines on the curve. He said he had noticed a difference with people taking their time and staying on their side of the road. There had been no complaints yet. Chief Bockey noted that Halloween was quiet with fewer kids than in the past and there were no problems. He added that Officer Fox attended the Glock armor school and was now certified to work on the department’s handguns if anything happens to them he can take care of them in house. The police report was accepted as presented.

**ACTION AGENDA**

**A. Town Code Chapter 11, Music Festivals - Repeal and Re-enact – First Reading**

The Mayor asked the Clerk to read the ordinance by title only for the second and final reading. The Clerk read “An Ordinance to Repeal and Re-enact Town Code Chapter 11 Regarding Musical Entertainment and Gatherings and Festival within the Town”.

Council member Hollis moved that the Council of the Town of Stephens City approve the first reading of Chapter 11, Music Festivals. Mayor Shull-Gellner asked for discussion.

Vice Mayor Fravel asked about the intent of the changes. Mr. Kehoe said there was an additional Article regarding the NHF along with a few other changes. Town Attorney Dave Griffin explained that the Chapter was also updated to reflect changes in state code and the definitions were broadened to make enforcement easier. Mr. Kehoe noted that sec 11-4 restricted persons under the age of 18 to roam freely and wondered if this was not out of date. Council member Hollis said he was more inclined to say 12 should be the age. The Mayor thought 18 was too old and some 12 year olds were capable of being unsupervised but others were not. Council member Harter asked if drivers' license were still issued at 16 and if you could drive you could be out on your own.

Mr. Kehoe also noted that a definition of a music festival was no longer in this chapter. Mr. Griffin replied that gave more discretion as to whether or not to apply the restrictions. Vice Mayor Fravel said in the past church groups or others had used the stage and he didn't remember reading the old ordinance to see if a permit was required. Mr. Griffin said the requirement has been on the books for a long time and they were required to come to the Town and get a permit. He said the changes were an attempt to be less specific to allow for discretion. Mr. Griffin further said that these changes were recommendations and updates and were open to change. The Mayor said Council could continue to change the ordinance prior to adoption.

Council member Hollis moved to amend his motion that the Council of the Town of Stephens City approve the first reading of Chapter 11, Music Festivals with a change to section 11-4 to read "persons under the age of 16 years."

Council member Harter questioned Section 11-34j as to the phrase "unreasonably audible beyond the property" being very vague. He suggested that it be dropped or straightened out. He asked who would determine that is was unreasonable. Mr. Griffin said that the Town also had a noise ordinance but this ordinance was revised to match what the Supreme Court required for constitutional basis and was not unlawfully vague. He added that unlike the noise ordinance where there was a penalty, this would give the Police Department the discretion to ask them to turn it down without penalty unless they refused.

Mr. Griffin said one other section, the new 11-6 included a provision that allows the Town to accept gifts in kind or money toward carrying out parks and recreation purposes so that such gifts become tax deductible. He advised that the specific language has been tried and tested in other localities in Virginia. He noted that does not mean that the Town would give advice concerning potential tax benefits – this would be up to the donor to consult with tax advisers. Gifts to the Town that meet the criteria could be issued a receipt for the donation and this would be generally considered a deductible gift. He added that this section must be in place as part of the ordinance for the tax deductible status to be effective.

The motion on the floor passed with the following recorded vote:

Recorded Vote:

Vice Mayor Fravel	-	Aye	Nay - None
Council member Bowers	-	Aye	Abstain - None
Council member Grayson	-	Aye	Absent-Council member Dilg
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

**B. Town Zoning Ordinance Amendment – Addition of Retirement Community Dist R-4**

The Mayor asked the Clerk to read the ordinance by title only for the first reading. The Clerk read “An Ordinance to Amend Chapter 23 of the Code of the Town of Stephens City for the purpose of creating a Retirement Community Zoning District R-4”.

Vice Mayor Fravel moved to approve the first reading of the Town Zoning Ordinance adding Retirement Community District R-4 and the motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Fravel	-	Aye	Nay - None
Council member Bowers	-	Aye	Abstain - None
Council member Grayson	-	Aye	Absent-Council member Dilg
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

Council member Hollis asked if this complied with the annexation agreement. Mr. Henshaw said it was basically an addition of a zoning district. He added that Frederick County had reviewed this and had offered comments which had been considered. Council member Hollis said he wanted to avoid any future roadblocks.

**C. Resolution – Support for I-81 Relocation Study and Rt. 277 Improvements**

Mayor Shull announced there was a resolution before Council to support the I-81 Relocation Study and Rt. 277 Improvement. Mr. Henshaw said the Town was approached by VDOT to express support for both improvements and he had changed focus to relocation as the Town’s main support. He said this was one more step showing the Town was in favor of the project

Council member Fravel moved to adopt the Resolution (copy attached) as presented and the motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Fravel	-	Aye	Nay - None
Council member Bowers	-	Aye	Abstain - None
Council member Grayson	-	Aye	Absent-Council member Dilg
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

The mayor noted that VDOT notified the Town that the project was on the approval list. Mr. Kehoe said that it was moving ahead faster than expected.

Council member Hollis asked if there was to be any action taken on the proposed changes to the charter. Town Attorney David Griffin said since Council has had the public hearing it would be appropriate to move that the Charter be amended per the public hearing notice. He also mentioned that Beverly Sherwood had agreed to sponsor this Charter change. Mr. Kehoe said he thought Council decided to hold the public hearing and not knowing what would come about from the public hearing, act in December. Council member Hollis asked if it would be too short a time. Mr. Griffin said if it was Council's pleasure, he recommended that Council act on it that night. He added that Beverly Sherwood would submit it as quickly as possible to the General Assembly.

Mr. Kehoe said that it was mentioned in the newsletter that citizens could contact their council member with questions about the change. Council member Hollis reported that he got together pros and cons of this change after talking with Rick Miller, General Registrar. He said on the pro side was that it would reach a wider electorate but on the con side a wider electorate might not be as informed on local issues and be distracted by other regional, statewide or national issues. He said a pro was reduced cost. He also noted that with local elections no party affiliation is necessary – no declaration and not indicated on the ballot. Mr. Griffin noted that the biggest problem with other jurisdictions have with such a change was receiving justice department approval but Stephens City was now exempt from this review. The Mayor noted that next election would still be in May of 2012 since the change could not be accomplished fast enough to get a change through the General Assembly for changes to the 2012 election.

Aaron Whitacre asked questions regarding the voting location and how town residents would be identified for voting. Town residents would vote on specified voting machines and would be identified by the registration card. After further discussion it was the consensus of Council to act on this proposed change to the Town Charter at the December meeting.

## **COMMITTEE REPORTS**

### **A. Administrative Committee – Joseph Hollis, Chair**

Council member Hollis reported that there had been no meeting.

### **B. Finance Committee – Joseph Hollis, Chair**

Council member Hollis reported no meeting was held.

**C. Public Works Committee – Joseph Grayson, Chair**

Council member Grayson reported no meeting was held.

**D. Water/Sewer Committee – James Harter, Chair**

Council member Harter reported no meeting was held.

**E. Personnel Committee – Martha Dilg, Chair**

Council member Dilg was not present but the Committee did meet and the report was attached. Council member Hollis asked if Council action was needed to make Shannon Rothemich acting treasurer. Mr. Kehoe said Council action was not needed for acting treasurer.

**F. Public Safety Committee – Ronald Bowers, Chair**

No meeting

**G. Parks & Recreation Commission – Ronald Bowers, Chair**

Council member Bowers noted that the members had before them the color concept of the veteran’s memorial as agreed to by committee. He said there could be some alterations made during construction but the illustration was the basic design.

Council member Hollis asked what information would be on the plaques on the memorial. Council member Bowers said the top middle one would probably be a general dedication to all veterans with the five medallions for the branches below. Council member Hollis asked if there would be places for individual names. He replied that names would not be on the façade but could be on bricks in the walkways. Mr. Henshaw said this would actually go along with fund raising projects. Council member Bowers said that the design would keep it closer to the natural grade to help offset cost and the drawing would make it easier for fundraising. Council member Hollis noted that from a fundraising aspect, it would get a better response if bricks were sold with individual names. Council member Bowers added that the committee had also looked at flagpoles and could go with two or three.

Mayor Shull-Gellner advised Council that the Town had received a letter from Adrian O’Connor president of the Newtown Heritage Festival stating that the committee voted to terminate their corporate status and dissolve the festival as a non-stock corporation. She said that the Town needed to make the Newtown Heritage Festival a subcommittee of the Parks and Recreation Commission. This would enable the NHF to continue under the auspices of the Town.

Council member Bowers Chair of the Parks and Recreation Commission moved that the Council of the Town of Stephens City make the Newtown Heritage Festival a subcommittee of the Parks and Recreation Commission. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Fravel	-	Aye	Nay - None
Council member Bowers	-	Aye	Abstain - None
Council member Grayson	-	Aye	Absent-Council member Dilg
Council member Harter	-	Aye	
Council member Hollis	-	Aye	

**PLANNER’S REPORT – Brian Henshaw**

Mr. Henshaw reported the first fundraiser of the veteran’s memorial would be through the Christmas on the Commons sponsored by the Stephens City Business Association. He said this would be the fourth annual event and everyone wanted it to continue. He said that every year the Town has a tree and this year it would be decorated with red, white and blue ornaments. The plan was that these ornaments would be donated or sponsored and all proceeds would go directly to the veteran’s memorial. He said that the goal was to get the whole tree covered leaving no branch bare. An individual or business could sponsor one for \$10 or 3 ornaments for \$25. He said it was their hope that this would kick off the fundraising. Mr. Henshaw asked that everyone put the date on their calendars – December 3 from 3:30 to 5:30 and try to attend. The rain date would be the following Saturday.

Mr. Henshaw said they would begin the process of overhauling the town website including incorporating a new logo by changing the wagon and the mountains in the background. He showed several examples to Council along with one that was recommended. He said the plan was to switch the logo on town supplies such as letterhead and envelopes as they needed to be reordered. He asked Council their opinion of the samples. Mr. Kehoe noted that the mountains appeared too dark and suggested they work on the colors to avoid use of a lot of black. Mr. Henshaw said they could use shades of gray on this section.

Council member Bowers asked about progress with the public/private partnership with the Lions Club. Mr. Henshaw reported that he had not heard back from the Lions Club after he submitted a letter detailing what was involved with the public private partnership for the park/playground on Bel Air Street. He said it was a very generalized agreement between the Lions and the Town which would allow them to have community service projects. He noted that the Lions liked to focus on such projects and in return they would be allowed to put plaques in the park. Mr. Henshaw said he hoped that this would act as a pilot project to reach out to other community and civic organizations to work in other parks. He said the Town was waiting to hear back officially from the Lions. Council member Bowers said he thought the board had approved this and it was simply a matter of getting an agreement back to the Town.

**TOWN MANAGERS REPORT – Mike Kehoe, Town Manager**

1. Mr. Kehoe reported that the Town public works crew hauled away at least five dump truck loads of limbs from all over town following the snow storm. He added that this was a service provided to the citizens of the town along with this month’s leaf collection.
2. Mr. Kehoe told the Council that the Frederick County Sanitation Authority assisted the town’s maintenance crew to TV certain sections of the sewer line a few weeks ago. Some information was obtained as to the origin of the rag problem at more than one location. He advised that the source or persons responsible will be notified by certified letter.
3. He reported that the Town had ordered new holiday banners and wreaths that the Mayor picked out and these should be put up the week of Thanksgiving.

4. Mr. Kehoe reported that the biggest news of the night was that the consent final order has been signed by both attorneys from the Town and Frederick County and had been submitted to the three judge panel to end the lawsuit. The Mayor said the Town was now waiting to hear from the three judge panel

### **COUNCIL COMMENTS/CALENDAR**

Mayor Shull-Gellnerl asked for any changes to the calendar. Mr. Henshaw advised that the Historic Preservation Commission and the Planning Commission would combine their November and December meetings and meet on Tuesday, December 13 – no meetings in November. Council member Bowers asked when the Festival Committee would be meeting. Adrian O’Connor said they would be meeting on November 17 at 7:00 in the Council Chambers. Council member Hollis said the Finance Committee should meet and November 15<sup>th</sup> at 5:00 pm was the agreed to date and time. The remainder of the calendar would stand as presented unless otherwise notified.

There being no further business, Council member Harter moved to adjourn at 8:21 p.m. and the motion carried.

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Joy B Shull-Gellner, Mayor

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Dianne L. MacMillan, CMC, Town Clerk