

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE TOWN COUNCIL  
HELD IN THE COUNCIL CHAMBERS ON MONDAY, JANUARY 22, 2007, AT 7:00 P.M.**

Members present: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger, H. Judson Lambert

Members absent: None

Others present: Town Manager C. Wayne Sutherland, Jr., Assistant Town Manager Stephen A. Moore, Town Clerk Sharon P. Hackler, Town Attorney Robert P. Kaase, First Sergeant Joey Hash, Police Officer Chastity Russell, Pat Snapp, Becky Grubb, Marjorie Willis, James B. Willis, Sammy Veneziano, Donna Wampler, Agnes Eades, Coleman Shuler

**RE: CALL TO ORDER, QUORUM, INVOCATION, PLEDGE**

Mayor Crewe called the meeting to order and established that a quorum of Council members was present. The invocation was given by Councilman Lambert followed by the Pledge of Allegiance led by Councilman Weisiger.

**RE: CONSENT AGENDA**

Mayor Crewe presented the consent agenda consisting of the minutes of the regular meeting of January 12, 2007, the request of the Wythe-Bland Regional Master Gardener Association for issuance of a raffle permit for 2007, and the request of the Wythe County Technology Center for issuance of a raffle permit for 2007. A motion was made by Vice-Mayor King and seconded by Councilman Weisiger to approve the consent agenda consisting of the minutes of the regular meeting of January 12, 2007, the request of the Wythe-Bland Regional Master Gardener Association for issuance of a raffle permit for 2007, and the request of the Wythe County Technology Center for issuance of a raffle permit for 2007. The motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger, H. Judson Lambert. Against: None.

**RE: CITIZENS' PERIOD**

Mayor Crewe noted the next agenda item is Citizens' Period. He thanked everyone for attending the meeting. He remarked that Mr. Jim Willis had indicated he wanted to speak, and noted he is assuming that Mr. Willis' comments are probably in connection with the Glenhaven Associates' request. Mayor Crewe advised that Mr. Coleman Shuler has indicated he would like to speak, and the Council will allow him to address the Council if he would like. Mr. Shuler inquired if he would be under a time limit. Mayor Crewe stated that is correct. Vice-Mayor King remarked that there would be a five minute time limit.

Mr. Coleman Shuler was recognized and stated he would like to thank the Council for the opportunity to speak to them again at this meeting, as he did on January 8, in trying to resolve some problems that were initiated by Stan Massie, the Town Building Official. He stated the two things he wants to address at this meeting are some misinformation that occurred at the January 8 meeting. Mr. Shuler remarked that also, he wanted to make a request for some information in follow up to resolve this matter. He advised that as he stated previously, and noted that Court documents and Town documents will bear this out, Mr. Massie was given instructions, and noted he does not believe it was voted on at a meeting, but either by individual Council members or Town officials privately, Mr. Massie's superiors, and he was told to come to his property several years ago and find as many violations as he could. Mr. Shuler explained that Mr. Massie wrote up 10 different things at two different locations—235 Meadow Run, where he lives, and then on Ridge Road where he manages the family farm where his mother and his stepfather live. He indicated that a part of trying to resolve this is to give, as everyone said in the Pledge of Allegiance, "liberty and justice for all." Mr. Shuler pointed out that "justice for all" first begins with total truth and then it generally follows with some degree of compassion, understanding, and cooperation, rather than litigation and adversarial circumstances. He stated that as the Council knows, part of it is in adversarial circumstances at this time, but being that Mr. Massie was the person who originally took the criminal warrants for violation of Town codes, there is information he needs to ask of the Council at this meeting. He noted that because one of the statements the Mayor made last week was that it was the Commonwealth of Virginia that was the plaintiff against him and not the Town of Wytheville, and as he agreed, technically, on paper that is correct, but he would like a copy of the agreement between the Town and the Commonwealth Attorney by which the Commonwealth Attorney prosecutes Town citizens for violation of Town ordinances when that Town citizen is not in violation of a State statute. Mr. Shuler indicated that, of course, this may be just a word of mouth agreement, it may be a written

contract, and stated he knows that it started with the prior Commonwealth Attorney Keith Blankenship, and then later Mike Sobey, and it is now inherited by Gerald Mabe II. He reiterated that he would like a copy of a document, if such exists, or an explanation satisfactory to him and any citizens who were so accused of crimes, even though it was a misdemeanor. Mr. Shuler stated that when a person is living on his/her own land and trying to survive on his/her own property, and trying to pay bills when he/she has had serious illnesses and serious financial setbacks, and then a Town official is instructed to find things wrong on a person's property. He continued but then there is an agreement where the Town does not prosecute it through their Town Attorney, but yet they turn it over to the Commonwealth and make it as if it is the State against the citizen. Mr. Shuler advised that he would like to know exactly what that agreement is, whether it was arrived at in an open meeting where citizens were present, whether it was a behind-the-scenes type of thing, and whether there is such agreement, when the Mayor stated, that it was the Commonwealth against him, and if that is, in fact, legal for the Commonwealth Attorney who is elected by all of the citizens of the County to prosecute a citizen of the town when that citizen has not violated any State statutes. He reiterated that he would like to know the specifics of that agreement, the date it was entered into originally, who the original parties were, who the subsequent parties were, and whether they were only the Town Manager, Town Attorney, Public Safety Director, Building Official, whether that included the Mayor and Council members prior to the current members or any of the current members. Mr. Shuler continued that he would like to know if whether these agreements with the Commonwealth to prosecute violations that the Town's officers served on their own citizens was done in any kind of open forum, and whether it does have any solid basis, not only in law but in justice, in fairness, and in the general equity that most citizens believe if they are trying to do the right thing that somebody will treat them fairly. He stated he would also like a documentation of the violations that have been prosecuted, the criminal charges that have been filed by Mr. Massie, or any other Town officials, on the properties annexed by the Town of Wytheville. Mr. Shuler indicated that as the Council knows, for his property, he bought a house in 1983 in Wythe County. He remarked that most of the people at this meeting, those of the Council and their distinguished guests, and anyone who has a house, generally cannot pick it up and move it. Mr. Shuler stated that the Town came and annexed those who were in the County, and, yet, according to Mr. Massie, the Town is still only selectively enforcing its own codes. He reiterated that he would like to have a list and the documentation of any and all persons, including himself, and when the violations were taken to court and whether they were always prosecuted by the Commonwealth Attorney, when the last date they were prosecuted by the Town Attorney and when that transition took place. Mr. Shuler advised that he would like to know why only certain codes are being enforced against certain citizens. He noted to wit, one of the codes is that a mobile home cannot be in the Town of Wytheville unless it is in a trailer court. He stated that as the Council knows, the chief complainant against him, Garnett and Margaret Lowder, who are personal friends of the Vice-Mayor, are in violation because they have a house trailer in the Town of Wytheville. Mr. Shuler commented that he is sure the argument will state that they were annexed, and the trailer was already set up when things were annexed. He stated in his situation, his trailer was already in the Town of Wytheville when he was annexed, and the vehicles and personal property were already there when he was annexed, and even any of the Council's distinguished guests who have driven on any of the main roads, Ridge Road, which is one of the properties in question, will find that any number of codes are in much more serious violation than he is, and has been for many years, even some in the vicinity right within a block or two of this very building. Mr. Shuler stated this is information that he would like to receive, hopefully, willingly. He remarked that he knows the Mayor stated last week that the court was one avenue, but advised he would like to think that they are all people who are willing to resolve real problems together rather than adversarially. Mr. Shuler commented that the misinformation he wants to correct is on Page 5 of the minutes from the January 8 meeting in which the Mayor, Mr. Crewe, was stating at the top of Page 5 about line three paraphrasing what is actually written then, but Mr. Crewe was stating he was making reckless allegations against a Town employee that are unfounded when he stated that Mr. Stan Massie, the Town's Building Official, committed perjury. Mr. Shuler indicated that first of all, they are not reckless allegations, they are specific and documentable truths, which can be documented over a long period of time in great specifics, and they are founded. He noted he is not certain since the Town Council did not choose to investigate those allegations...and he believes that Mr. Crewe stated that the Council would prefer that he pursue the perjury charges against the Town's Building Official in court rather than with this body. Mr. Shuler stated being that it was this body that originally asked Mr. Massie to find him in violation of as many Town codes as he could, then he would hope it would not be in the best interest of the Town to continue adversarially, but that they work together. He noted he thinks that any of the distinguished guests attending the meeting would like to think that if they were ever a victim in a situation of such that he is that they would be treated fairly by this body because the Council needs them every time there is an election, but the citizens need the Council every time there is a Council meeting, every time there is a vote, every time there is a decision because their lives and their well being are greatly affected by the Council's decisions. Mr. Shuler noted that as he states again, when he stated for the record that Mr. Stan K. Massie, the Town's Building Official,

had committed perjury under oath in court that it is a fact. He stated he has documentable evidence to prove it. Mr. Shuler pointed out that the Mayor was not in court that day nor was he at the meetings he had with Mr. Massie. He stated he does not mind the Council asking for the proof, but to state that he made reckless allegations that are unfounded, and advised that this statement, in itself, is a reckless allegation against his integrity and is totally unfounded. Mayor Crewe remarked that he is going to call time. Mr. Shuler advised that he appreciates the Council's time. Mayor Crewe noted that he has permitted Mr. Shuler to go beyond the five minutes that the Council normally allows, and indicated that, in fact, Mr. Shuler has gone a little over ten minutes. He stated if anyone on Town Council wants to respond to the information and the request and the statements that Mr. Shuler just made, he will afford that opportunity. Mayor Crewe noted he did not know if Town Attorney Kaase wants to address any of the issues as well. Town Attorney Kaase remarked that he did not know of any issues raised that require him to respond, but noted he can tell them it has been many, many years since the Town had to retain services to prosecute criminal matters. He indicated that the Commonwealth's Attorney's Office has been doing that now for many, many years, and it would be unusual for the Town to have to pursue a criminal matter. Town Attorney Kaase stated it has been required for the terms of at least three or four different Commonwealth Attorneys. Mayor Crewe noted it was back at least as far as Mr. Tommy Baird's days. Mr. Shuler inquired as to under what statute does the Commonwealth Attorneys prosecute the Town's cases. Mayor Crewe stated he would suggest that Mr. Shuler make this request to the Commonwealth Attorney's Office, but remarked that he would tell Mr. Shuler that his response is that the Town citizens are citizens of the County, and the County Commonwealth's Attorney prosecutes the cases on behalf of all the citizens of the County. He noted that, for example, Town traffic matters are routinely prosecuted by the Commonwealth's Attorney's Office, and it is not like this is something special or unusual. Mayor Crewe indicated that this is the only response he can give to Mr. Shuler about this, and advised he did not believe there is any written agreement, and it is just something the Commonwealth's Attorney has been doing for at least 25 years, maybe longer. He remarked that he does not even know if it is statutory, and explained that he has never actually had to go look, but they are prosecuting the crimes that are brought in the County because they are the Commonwealth's Attorney's Office in Wythe County. Mayor Crewe indicated that the Commonwealth Attorney's Office prosecutes Town cases all the time. He stated that when Mr. Shuler was talking about a trailer in the Town limits, the only response he can give Mr. Shuler is that there are some nonconforming structures that were annexed that can continue to be used so long as they are in the same usage as they were when they were annexed. Mayor Crewe explained that if the usage were to cease or if it were to be destroyed by fire or something like that, it cannot be reconstructed. He stated he did not know if this is the exact answer to the situation Mr. Shuler specifically asked about, but indicated that he knows there are nonconforming uses that were pre-existent to the annexation that are allowed as nonconforming uses. Mayor Crewe noted that, again, Mr. Shuler's statement about Town Council sending Building Official Massie out to find as many violations as possible, he will take exception to. He stated he does not believe that is an accurate statement. Mayor Crewe remarked that he will go back to what he stated last time, and if Mr. Shuler believes there is perjury committed, there are avenues for him to pursue that and not in front of this Council. Mr. Jones inquired if the information Mr. Shuler has requested will require him to file a Freedom of Information request. Mayor Crewe noted that this is where he was headed with this, and remarked that he is trying to give Mr. Shuler what he can give him without the Freedom of Information Act request. He commented that he thinks he has addressed the three things he had written down that Mr. Shuler had asked about. Mayor Crewe informed Mr. Shuler that he is, certainly, within his rights to file a Freedom of Information request, and the Town will respond to that as the statute allows. He noted this is the best he can tell Mr. Shuler in response to the things he has listed at this meeting. Mr. Shuler indicated that to clarify, he had one follow up question if he may ask it from Town Attorney Kaase's comments and Mayor Crewe's comments. He advised that since they said the Commonwealth Attorney had prosecuted cases for quite some time, he asked them to correct him if he is wrong, but he would assume that traffic violations are statutory, whether Town or County, such as speed limits, driving under the influence, etc., and some of those things. Mr. Shuler noted his request is relative to whether it was statutory for the Commonwealth Attorney to prosecute those laws or ordinances that are only Town ordinances. He stated he totally understands if the Commonwealth Attorney were to prosecute any of the citizens under a County or State ordinance. Mayor Crewe pointed out that there is no difference. He explained that the answer to Mr. Shuler's question is that the Commonwealth's Attorney prosecutes criminal offenses whether they are written in the Town code or State code. Mayor Crewe pointed out that Mr. Shuler is missing the point with the Building Code, under which Mr. Shuler was charged with violations, which is State law. He stated that the Town code mimics State law and tracks State law, and a lot of the traffic laws in town track State law, so there is no differentiation. He advised Mr. Shuler is making a differentiation where none exists, and this is why Mr. Shuler is "beating a dead horse." Mayor Crewe stated that Mr. Shuler is asking for something that does not exist. Mr. Shuler asked Mayor Crewe to help him understand, and inquired as to what State...when it is a Town code, Mayor Crewe is just stating it is just assumed that it is also a State code. Mayor

Crewe stated that is not correct, and noted he is not stating this at all. Mayor Crewe explained that he is stating there are State laws that enable the Town to pass Town ordinances, and they track one another. He noted, for example, the Council cannot set a speed limit at 85 MPH on Main Street. Mr. Shuler stated that is correct. Mayor Crewe pointed out that State law prohibits it. He noted that the Town cannot allow a structure that does not meet the Building Code, and State law prohibits that, and advised Mr. Shuler that it is the same scenario. Mayor Crewe indicated that the only authority he can give Mr. Shuler for this is that the Commonwealth's Attorney in the Constitution of Virginia is tasked with prosecuting criminal offenses that occur in that jurisdiction. Mr. Shuler inquired if the follow up to that would be since these Town codes are more restrictive than the State code, if it is still statutorily sound. Mayor Crewe stated he disputes the assumption of Mr. Shuler's question, and, there again, that is why they are in court. He noted he does not know how to answer a question that he thinks is incorrect. Mayor Crewe explained that Mr. Shuler is charged under the Town code violating the Building Code, and noted he thinks they are all Building Code violations and remarked that he thinks there is one zoning, if he remembers, and noted he cannot remember if there is a zoning one for the Town. Mr. Shuler pointed out that the Town Zoning Ordinance is in violation of State Code. Mayor Crewe stated that Mr. Shuler needs to go to back to court and declare that, and then the Town changes it. He noted that until that is done, it is a valid law, and that is why this is not the proper forum for Mr. Shuler to make those arguments. Mr. Shuler remarked that once again, even though there is documentation of perjury, it is like Mr. Massie is working for the Council, but they do not deal with it and take it to court. Mayor Crewe stated if there is any documentation of perjury, he would encourage Mr. Shuler, as he stated last time, to show that to the court and pursue those means and the documentation of perjury. He noted there is nothing this body can do about perjury. Mayor Crewe stated that perjury is a criminal offense, and the Town Council does not charge criminal cases and does not try criminal cases, so they cannot rule in that. Mr. Shuler inquired if one of the Town employees is found guilty of perjury would he be removed from his job. Mayor Crewe answered that the Council has Town policies and statutes that deal with Town employees who are convicted of criminal offenses, and perjury would be a felony, and, noted that there would be some consequences to the employee if there were a felony conviction. He noted that, in fact, there is a whole avenue of things. Mr. Shuler inquired if this were to occur, and even if it does not, he is assuming by Mayor Crewe stating the Town does not want to be responsible for its employees, that any civil litigation he would take against Mr. Massie or against the Town, since he was acting on the Town's behalf, but still it would be whatever civil options and whatever criminal options. Mayor Crewe advised that his answer is the Town has been dealing with this for at least 15 years, and they are no closer now than they were 15 years ago. He stated the only answer the Town Council has is to put this in the lap of a judge and let the courts decide. Mayor Crewe commented that he would give Mr. Shuler this same response on perjury, on unconstitutionality of the Town ordinance, on any impropriety that a Town employee does, and for all of these that the Town and Mr. Shuler disagree on, and the only possible answer is to have a court rule on it whether it is civil, criminal, perjury, or whatever else it is that the Town and Mr. Shuler do not seem to get anywhere on, and the Town wants the judges to decide. Mr. Shuler noted that at least, and especially, relating somewhat to what Councilman Jones stated, he did want to know why there is selective prosecution against certain citizens. Mayor Crewe advised that he disagrees with the precept of that question, too, and the Town does not believe there is selective prosecution. He noted he does not believe this, and noted he suspects the Town Council does not believe there is selective prosecution. Mr. Shuler indicated that the Town's Building Official stated that in court under oath. Mayor Crewe remarked that it depends on Mr. Shuler's definition, Building Official Massie's definition, and his definition. He explained that the Town enforces all the laws against everybody. Mayor Crewe advised that this is what the Town is responsible for doing. He pointed out that there are a lot of people when the violation is brought to their attention, who correct it, and the Town does not take criminal actions, and the Town does not have to go to court to resolve it. He explained that this was not successful in this case, and it, ultimately, ended up in criminal sanctions being formed. Mayor Crewe indicated that where Mr. Shuler is right now is on a contempt that the Town had nothing to do with, and that the Commonwealth's Attorney's Office did. Mr. Shuler remarked that this, again, is not true. Mayor Crewe noted he has read the order, and he saw what the order stated. He advised he knows exactly what it stated. Mayor Crewe remarked that he does not have the order in front of him at this meeting, but he has seen it. Mr. Shuler noted that as he stated before Council last time, Mr. Mabe met with Mr. Sutherland, Mr. Kaase, Mr. Newberry, and Mr. Massie, and they asked him to continue prosecuting rather than to work cooperatively. Mayor Crewe advised Mr. Shuler that he just told him that the Town has been working cooperatively for 15 years, and they are no closer now than they were 15 years ago, and the Town sees no cooperation on Mr. Shuler's side, so the Town is asking the judge to impose the cooperation. He noted that, frankly, this is where the Town is. Mr. Shuler advised that this part is incorrect. Mayor Crewe stated that the Town and Mr. Shuler disagree, and that is why they need to have a mutual decision maker to decide. He noted he is speaking for the Council. Mayor Crewe pointed out that Mr. Shuler has not brought his property into compliance as he was told to do starting 15 years ago or longer. He stated the Council thinks this is a

problem, and they have tried to address it every way they know, and they have gotten nowhere. Mayor Crewe advised that the Town has brought the actions and will let the court address it. He stated this is the only venue in which this can be decided. Mr. Shuler advised that he would like to state again that it is obvious there are violations in the original town that was never annexed that have never been addressed, so it is selective prosecution. Mayor Crewe noted that Mr. Shuler is entitled to his opinion. Mr. Shuler pointed out that it is not an opinion, it is a fact documented by the evidence. He advised that like he has stated, that is why he will continue to come back before this body because the citizens deserve better, and it is not just about him. Mr. Shuler remarked that he will fight for himself until he draws his last breath because he is in the right. He noted it is not right for people to lie and present false witness, which is in violation of two of the original Ten Commandments, and then get away with it, and then somebody say, "Sorry, tough luck." Mr. Shuler indicated that it is totally wrong that lies and false representations are allowed even to stand, but just the fact that he was singled out and other people who have much more serious violations are ignored, that is also serious, and that is also something that this body could...and advised he knows that the Council states they will not, but since the court has ruled in the Town's favor a couple of times, they think that now they have him. He noted perjury is serious, and it is evidence from the original trial, and that is in the transcripts of the original trial. Mr. Shuler stated all of the citizens deserve to say, "Hey, if I know a Town official is prosecuting me unfairly," surely our elected officials say, "Yes, sir. Yes ma'am. I'll look into it. We'll straighten it out." Mr. Shuler indicated that he does understand, and advised that he has a little bit of junk in his yard but that is not near as serious as a Town Building Official lying under oath. Mayor Crewe reiterated that Mr. Shuler is entitled to his opinion, and noted the only way this is ever going to be resolved is in court, and that is where, again, this week, he will tell Mr. Shuler that they need to pursue this. Mr. Shuler noted that if he must, he will, but he will continue to come back with other matters before this Council because, like he has stated, the citizens deserve for somebody to take the moral stand and say, "We'll rise up and do the right thing without being forced to by court." Mayor Crewe indicated that he thinks they would all be delighted if the right thing were done, but it is just that Mr. Shuler's definition of the "right thing" and the Town's definition of the "right thing" do not coincide, and that is why they need a judge to decide. Mr. Shuler inquired if Mayor Crewe thinks it is alright for anyone to lie against anyone else, and the lie harm the innocent person. Mayor Crewe answered that it is not right for anybody to lie under oath, period, and there is a criminal offense for that. He noted if Mr. Shuler can prove it, to do it. He remarked it is also not right for somebody to stand up and accuse somebody of lying when there has not been that established fact in court or in a ruling, and that is called slander. Mayor Crewe stated that Mr. Shuler needs to remember that as well. He pointed out that there are two sides to this, and they have not been able to work it out, and they need to tell the judge. He indicated that so far, he does not think that Mr. Shuler has told the judge this. Mayor Crewe remarked that Mr. Shuler is telling the Council this. Mr. Shuler stated that he has told the judge this. Mayor Crewe explained that Mr. Shuler needs to get a ruling from the court in his favor, and then they have something to talk about. He noted that, otherwise, Mr. Shuler is just making allegations the Council does not want to deal with. Mr. Shuler commented that when he has documentation, the Council states they do not want to hear it. Mayor Crewe pointed out that if Mr. Shuler has documentation, he should give it to the court. He noted this is what he is telling Mr. Shuler for the umpteenth time. Mayor Crewe reiterated that this needs to be resolved in court and not in the Town Council Chambers. Mr. Shuler advised that the citizens of Wytheville will not be better off by that. Mayor Crewe indicated that he guesses that will be yet to be determined. He thanked Mr. Shuler for his comments. Mr. Shuler thanked Mayor Crewe for the opportunity to speak.

Mayor Crewe remarked that he did not see anyone else on the sign up sheet who indicated they wanted to speak to the Council during Citizens' Period. He inquired if there are others who wish to address Town Council during Citizens' Period. Mayor Crewe thanked everyone for attending the meeting. There being no others to address Town Council during Citizens' Period, he proceeded with the agenda.

### **RE: OLD BUSINESS**

Under Old Business, Town Manager Sutherland reported the following:

1. The Committee meetings this week are reversed with the Budget and Finance Committee meeting on Tuesday morning, January 23, and the Public Works Committee meeting on Wednesday morning, January 24.
2. Next Monday evening, the Joint Governing Bodies will meet, and, this year, the meetings will be held at the Town of Rural Retreat. Mayor Crewe indicated that the Council members probably need to work on riding together, if they wanted to do that. Town Manager Sutherland stated that is correct. Mayor Crewe stated they could talk about that in Committee meetings this week.

## **RE: BUDGET AND FINANCE COMMITTEE REPORT**

Councilman Jones, reporting for the Budget and Finance Committee, reported that Town Treasurer Mike Stephens has submitted to the Committee for review a list of certain delinquent taxes and fees due to the Town of Wytheville that have been deemed to be uncollectible. He noted the write offs that the Treasurer is requesting consist of \$193.00 in 1986 Mowing Assessments, \$2,748.93 in 2001 Personal Property/Mobile Home taxes, and \$16,567.87 in Water and Sewer Bills for the period between 1992 and 2000. Councilman Jones advised that Mr. Stephens advises that he has exhausted all of his efforts in collecting these amounts and would request that pursuant to Section 58.1-3940 of the Code of Virginia, the Council authorize him to write these amounts off of the Town's books. He stated it would be the recommendation of the Budget and Finance Committee that the Council accept the recommendation of the Treasurer. A motion was made by Councilman Jones and seconded by Vice-Mayor King to authorize the Town Treasurer to write off of the Town books \$193.00 in 1986 Mowing Assessments, \$2,748.93 in 2001 Personal Property/Mobile Home taxes, and \$16,567.87 in Water and Sewer Bills for the period between 1992 and 2000. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger, H. Judson Lambert. Against: None.

Councilman Jones also reported that for several years, the Town has been a supporter of the efforts of the TransDominion Express, Incorporated, who seeks to establish passenger rail service across Virginia. He stated that TransDominion Express, Incorporated is a non-profit organization who has worked diligently to encourage the General Assembly to provide funding that will create this new passenger rail service across Virginia. Councilman Jones remarked that just recently, in July 2006, the Town contributed \$500 toward their efforts. He stated that the Town has received this month yet an additional request from TransDominion Express seeking another \$500 contribution. Councilman Jones noted that the TransDominion Board has determined that there is far too much work for a volunteer staff to perform and has identified the need for a full-time executive director. He stated given that the Town has been involved with this effort through the years, it would be the recommendation of the Budget and Finance Committee that the Council appropriate an additional \$500 to the TransDominion Express, Incorporated. A motion was made by Councilman Jones and seconded by Vice-Mayor King that the Council appropriate an additional \$500 to the TransDominion Express, Incorporated. Mayor Crewe inquired if there is any discussion on the motion. Mayor Crewe noted that, incidentally, in case the Council has not seen it, at the last railroad meeting about a month ago, the study that has just come out was released, and it shows Wytheville as one of the stops on the Bristol-Richmond leg and the Bristol-Lynchburg leg, as well. There being no further discussion, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger, H. Judson Lambert. Against: None. A copy of the Budget and Finance Committee report is attached and made part of these minutes. ([Attachment](#)).

## **RE: PUBLIC WORKS COMMITTEE REPORT**

Councilman Weisiger, reporting for the Public Works Committee, stated that since the Public Works Committee serves as the appointments to the New River Regional Water Authority from the Town, the Committee thought it might be helpful to give the Council an update on the activities that are currently before the Authority. He stated that on January 9, bids were received for various components of construction associated with the new water treatment plant in Austinville. Councilman Weisiger noted that the project was bid in three categories with Division I being the construction of the water treatment facility, with Division II being the construction of certain intake and transmission lines serving the water treatment facility, and Division III being the installation of the transmission main underneath the bridge crossing the New River. He remarked that the total estimated budget for all of these divisions of work was estimated to be \$14.6 million. Councilman Weisiger stated that after receipt of the bids, the apparent lowest bidding equaled \$19.6 million, leaving a shortfall of \$5 million between the budgeted amount and the construction bids. He advised that at the meeting on Thursday, the Authority discussed this shortfall and has determined the course of action to proceed with the construction. Councilman Weisiger noted that the Authority has requested each jurisdiction to adopt a resolution to be submitted to the Tobacco Commission seeking \$2 million of grant funds to be used toward this project. He noted in that case, the Authority would obtain from the Virginia Resources Authority an additional \$3 million that would cover the cost of overruns in the project. Councilman Weisiger advised that in the event the Authority was unsuccessful in obtaining the Tobacco Commission grant funds, the Virginia Resources Authority is willing to fund the total \$5 million difference. He stated it was hoped that the construction estimates would be more closely aligned with the actual bids, though there was some concern during the period that the escalating cost of concrete, steel, and electrical components may well cause the project budget

to be underestimated. Councilman Weisiger noted that in any event, the result of these bids will mean that the debt service for the New River Regional Water Authority will be somewhat greater than had been anticipated. He advised that the Committee will have specific information on the additional expenses associated with the new treatment facility at the next meeting. Councilman Weisiger explained that the only action required of the Council at this time is to consider an action to adopt a resolution to be submitted to the Tobacco Indemnification Commission seeking grant funds for this regional water project in the amount of two million dollars. He explained that this joint resolution will be adopted and signed by all three jurisdictions. Councilman Weisiger advised that it would be the recommendation of the Public Works Committee that a resolution be adopted and the Mayor be authorized to execute it on the Town's behalf. Mayor Crewe noted that if he understands correctly, the deadline for the application is March 1. Town Manager Sutherland answered that he thinks they were discussing this morning that there are two different groups of money, and noted he thinks this is one that can be submitted at any time during the year. Mayor Crewe advised that what he was thinking about is if the Council wants to act on this motion at this meeting, or try to come up with the wording of a resolution later, or if the Council wants to come up with the wording and have it passed at the joint meeting next week. Town Manager Sutherland noted that he thinks the Town may receive the resolution today. He explained that he thinks the Tobacco Indemnification Commission will tell the Town what the resolution needs to state, and the Town does not have that form. He stated that next Monday at the Joint Governing Bodies meeting would be a good opportunity to adopt the resolution. Mayor Crewe noted that the Town and the County could adopt the same wording in the resolution on the same night. He advised that he knows the Committees have looked at this, but noted he does not sense there is any disagreement, and everyone is in favor of adopting a resolution, unless he is reading the Council wrong. Mayor Crewe inquired if the Council needs to vote on anything at this meeting, other than there is a general consensus to go forward with this, and they can receive the wording at the next meeting. Town Manager Sutherland stated that is correct, and noted he does not think that Town staff has anything to present. Mayor Crewe noted that the Council will wait and adopt the resolution at the Joint Governing Bodies meeting.

Councilman Weisiger also reported that the Town of Wytheville has had a Soil Erosion and Sedimentation Ordinance for many years. He advised that in recent years, the State has routinely made modifications to the regulatory language within the Town's existing ordinance. He advised that the statewide program regulating erosion and sediment control is administered by the Virginia Soil and Water Conservation Board. Councilman Weisiger noted that the regulations that are required this year are substantially verifications in definitions and insertion of the appropriate Virginia Code sections. He explained that in addition, this year there have been certain definitions added in the ordinance that define the engineering calculations required in determining the appropriate erosion and sediment control measures that have to be installed when disturbing land. Councilman Weisiger stated that later this evening, the Council will consider an ordinance making the amendments as proposed by the Virginia Soil and Water Conservation Board. He advised that if the Council so desires, the ordinance could be approved on first and final reading, but since there is no urgency, the Council may desire to give affected developers the opportunity to review the new regulations and have the ordinance go through all three readings. Mayor Crewe stated the Council will consider this ordinance as the next agenda item. A copy of the Public Works Committee report is attached and made part of these minutes.

[\(Attachment\)](#).

**RE: ORDINANCE NO. 1208 – EROSION AND SEDIMENT CONTROL**

Mayor Crewe presented Ordinance No. 1208, an ordinance amending and reenacting Chapter 10, Planning and Development, of the Code of the Town of Wytheville, Virginia, by amending Article IV, Erosion and Sediment Control, on first reading. He noted this is the ordinance just reported on by the Public Works Committee that basically amends the Soil Erosion and Sediment Control Ordinance, and it is in compliance with the State law. Mayor Crewe stated this ordinance comes from a recommendation from the Public Works Committee that the ordinance be adopted on first, but not yet, final reading if he understands the motion and inquired if that is correct. Councilman Weisiger noted that is correct, and this is the way he would like to present the ordinance on first, but not final, reading. A motion was made by Councilman Weisiger and seconded by Councilman Lambert to adopt Ordinance No. 1208, an ordinance amending and reenacting Chapter 10, Planning and Development, of the Code of the Town of Wytheville, Virginia, by amending Article IV, Erosion and Sediment Control, on first, but not final, reading. Mayor Crewe inquired if there is any discussion on the motion or if anyone wants to do anything differently. There being none, the motion was approved with the following voting in favor and there being no opposition:

FOR: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger, H. Judson Lambert

AGAINST: None

ABSTENTIONS: None

Ordinance 1208 was approved on first, but not final, reading. Mayor Crewe stated that the ordinance will go through another reading, and should go through three readings unless the Council chooses to opt out of going through three readings. He pointed out that the ordinance is not yet effective.

**RE: GLENHAVEN ASSOCIATES, LLC**

Mayor Crewe stated the next agenda item is to consider the recommendation of the Planning Commission regarding the request of Glenhaven Associates, LLC for final approval of the plans for Phase II of a planned unit development known as "Chestnut Ridge" located on property on the east side of Fisher Road between Mountain View Drive and Valley Street in an R-2 Residential zone. He noted that the Council will see in their packet that the recommendation the Planning Commission passed was that Phase II be allowed with the stipulation that it be in complete technical compliance with the Planned Unit Development section of the Zoning Ordinance, the Subdivision Ordinance, Erosion and Sediment Control Ordinances, and Stormwater Management Ordinances, and that the developers be allowed the flexibility to increase the front setback line between 35 feet and 45 feet to permit a turnaround area for vehicles so as to prevent people from having to back into Fisher Road. Mayor Crewe explained that this is the recommendation that is coming to the Council from the Planning Commission. A motion was made by Councilman Jones and seconded by Vice-Mayor King to approve the recommendation of the Planning Commission regarding the request of Glenhaven Associates, LLC for final approval of the plans for Phase II of a planned unit development known as "Chestnut Ridge" located on property on the east side of Fisher Road between Mountain View Drive and Valley Street in an R-2 Residential zone with the following stipulations: (a) The project is in complete technical compliance with the Planned Unit Development section of the Zoning Ordinance, the Subdivision Ordinance, Erosion and Sediment Control Ordinances, and Stormwater Management Ordinances; (b) Town Council give approval of the developers' request for the flexibility to increase the front setback between 35 feet to 45 feet to permit a turnaround area for vehicles. This would prevent homeowners from having to back their vehicles into Fisher Road.

Mayor Crewe inquired if there is any discussion on the motion. He stated he is not trying to cut off the discussion, and noted he just assumed that Mr. Willis did not have any comments, but indicated Mr. Willis is welcome to state anything he desires, but advised it is not required. There being no discussion, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger, H. Judson Lambert. Against: None.

**RE: ADJOURNMENT**

There being no further business to be discussed, a motion was duly made, seconded, and carried to adjourn the meeting (7:40 p.m.).

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Trenton G. Crewe, Jr., Mayor

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Sharon P. Hackler, MMC, Clerk of Council

## **BUDGET AND FINANCE COMMITTEE REPORT**

**JANUARY 22, 2007**

1. Town Treasurer Mike Stephens has submitted to our Committee for review a list of certain delinquent taxes and fees due to the Town of Wytheville that have been deemed to be uncollectible. The write offs that the Treasurer is requesting consist of \$193.00 in 1986 Mowing Assessments, \$2,748.93 in 2001 Personal Property/Mobile Home taxes, and \$16,567.87 in Water and Sewer Bills for the period between 1992 and 2000. Mr. Stephens advises that he has exhausted all of his efforts in collecting these amounts and would request that pursuant to Section 58.1-3940 of the Code of Virginia, the Council authorize him to write these amounts off of the Town's books. It would be the recommendation of the Budget and Finance Committee that we accept the recommendation of the Treasurer.
2. For several years, the Town has been a supporter of the efforts of the TransDominion Express, Incorporated, who seeks to establish passenger rail service across Virginia. TransDominion Express, Incorporated is a non-profit organization who has worked diligently to encourage the General Assembly to provide funding that will create this new passenger rail service across Virginia. Just recently, in July of 2006, the Town contributed \$500 toward their efforts. We have received this month yet an additional request from the TransDominion Express seeking another \$500 contribution. The TransDominion Board has

determined that there is far too much work for a volunteer staff to perform and has identified the need for a full-time executive director. Given that the Town has been involved with this effort through the years, it would be the recommendation of the Budget and Finance Committee that we appropriate an additional \$500 to the TransDominion Express, Incorporated.

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Jacqueline K. King

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John W. Jones, Jr.

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## **PUBLIC WORKS COMMITTEE REPORT**

**JANUARY 22, 2007**

1. Since the Public Works Committee serves as the appointments to the New River Regional Water Authority from the Town, we thought it might be helpful to give the Council an update on the activities that are currently before the Authority. On January 9, bids were received for various components of construction associated with the new water treatment plant in Austinville. The project was bid in three categories with Division I being the construction of the water treatment facility, with Division II being the construction of certain intake and transmission lines serving the water treatment facility, and Division III being the installation of the transmission main underneath the bridge crossing the New River. The total estimated budget for all of these divisions of work was estimated to be \$14.6 million. After receipt of the bids, the apparent lowest bidding equaled \$19.6 million, leaving a shortfall of \$5 million between the budgeted amount and the construction bids. At the meeting on Thursday, the Authority discussed this shortfall and has determined the course of action to proceed with the construction. The Authority has requested each jurisdiction to adopt a resolution to be submitted to the Tobacco Commission seeking \$2 million of grant funds to be used toward this project. In that case, the Authority would obtain from the Virginia Resources Authority an additional \$3 million that would cover the cost overruns in the project. In the event that the Authority was unsuccessful in obtaining the Tobacco Commission grant funds, the Virginia Resources Authority is willing to fund the total \$5 million difference.

It was hoped that the construction estimates would be more closely aligned with the actual bids, though there was some concern during the period that the escalating cost of concrete, steel and electrical components may well cause the project budget to be underestimated. In any event, the result of these bids will mean that the debt service for the New River Regional Water Authority will be somewhat greater than had been anticipated. We will have specific information on the additional expenses associated with the new treatment facility at our next meeting.

The only action required of the Council at this time is to consider an action to adopt a resolution to be submitted to the Tobacco Indemnification Commission seeking grant funds for this regional water project in the amount of two million dollars. This joint resolution will be adopted and signed by all three jurisdictions. It would be the recommendation of the Public Works Committee that a resolution be adopted and the Mayor be authorized to execute it on the Town's behalf.

2. The Town of Wytheville has had a Soil Erosion and Sedimentation Ordinance for many years. In recent years, the State has routinely made modifications to the regulatory language within our existing ordinance. The statewide program regulating erosion and sediment control is administered by the Virginia Soil and Water Conservation Board. The regulations that are required this year are substantially verifications in definitions and insertion of the appropriate Virginia Code sections. In addition, this year there have been certain definitions added in the ordinance that define the engineering calculations required in determining the appropriate erosion

and sediment control measures that have to be installed when disturbing land. Later this evening, the Council will consider an ordinance making the amendments as proposed by the Virginia Soil and Water Conservation Board. If the Council so desires, it could be approved on first and final reading, but since there is no urgency, the Council may desire to give affected developers the opportunity to review the new regulations and have the ordinance go through all three readings.

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William B. Weisiger

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H. Judson Lambert