

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE TOWN COUNCIL
HELD IN THE COUNCIL CHAMBERS ON MONDAY, JULY 23, 2007, AT 7:00 P.M.**

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

Members absent: William B. Weisiger

Others present: Town Manager C. Wayne Sutherland, Jr., Chief Deputy Clerk Sharon G. Corvin, Assistant Town Manager Stephen A. Moore, Police Officer John Humphrey, C. D. Tarter, Eric Deaton, Patty Harman, David Hancock, Michael Hancock, Andrei Stoker, Tony Wright, Clayton Wright

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 the Boy Scouts Troop 197.

RE: CONSENT AGENDA

Mayor Crewe presented the consent agenda consisting of the minutes of the regular meeting of July 9, 2007, and the request of the March of Dimes for waiver of fee for use of Withers Park and McWane Shelter for a walk on October 13, 2007. A motion was made by Vice-Mayor King and seconded by Councilman Lambert to approve the consent agenda consisting of the minutes of the regular meeting of July 9, 2007, and the request of the March of Dimes for waiver of fee for use of Withers Park and McWane Shelter for a walk on October 13, 2007. 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., H. Judson Lambert. Against: None.

RE: CITIZENS' PERIOD

Mayor Crewe stated the next agenda item is Citizens' Period. He noted that Mr. C. D. Tarter is first on the sign up sheet, and he had indicated that he desired to address the Council regarding a new street proposal.

Mr. C. D. Tarter was recognized and stated he will go back with a little history and make this as brief as he can. He advised that in 1967, Mr. Curtis Epperly was appointed with the First National Exchange Bank as executor of the estate of W. Brown Cassell, which is now Sherwood Forest and the Golf Club area. He indicated that he is attending the meeting because he would like to make a proposal that the Town of Wytheville consider a street between the West End Cemetery and the National Forest property that would enter and depart on Route 11. Mr. Tarter remarked that in 1969 or 1970, there were eight houses in Sherwood Forest, and noted that now he thinks there are over 100 homes. He stated for the traffic by his house, and all through Sherwood Forest, there is only way in and one way out, except over on Old Stage Road and advised that this is a long way off. Mr. Tarter indicated that this new street would surely help the traffic situation and the safety that is necessary for this area in case of fire. He advised that he talked to members of the Fire Department, and they noted if they had to shut down the streets in Sherwood Forest, there would be no way out except on Old Stage Road. Mr. Tarter pointed out that this neighborhood has been very lucky not to have a fire or a forest fire in this area. He summarized that this is his proposal. Mr. Tarter advised that he gave Mayor Crewe a copy of the National Forest notice that they are selling the property. He noted that the Forest Service has vacated the property, and it has not come up for sale yet, but it is going to be on their web site, and he gave this information to Mayor Crewe. Mr. Tarter remarked that he also has a copy of the deed from Brown Cassell to the National Forest, and in 1943, Mr. Cassell sold the property to the National Forest for \$1,100. He stated he has the tax ticket on this property and for the buildings. He remarked that there is supposed to be about 4 acres of the property. Mr. Tarter indicated that since the Forest Service vacated their property, he noted he is unsure, but he thinks the Forest Service said the Town had 25 feet of right of way as of now. Mayor Crewe stated that after he and Mr. Tarter talked, the Town discovered that there is a 25 foot right of way that is still owned by the Town through there, and it is, basically, against the cemetery fence. Mr. Tarter advised that when he helped Mr. Curtis Epperly, he drew the street out, and he took it upon himself to build Sherwood Forest Road, and it was 50 feet. Mr. Tarter indicated that he also drew a 50 foot line by the National Forest and the cemetery. He stated he is unsure if the National Forest had another 25 feet and they vacated their part. Mr. Tarter remarked that the Forest Service came to the Town Council back when Mayor Stark and the Council annexed them into town. He noted he did not know what happened about that, but there should be a 50 foot right of way, but if there is only 25 feet, that is what he thinks is on Sherwood Forest Road

right now. Mr. Tarter summarized that this is the way it stands today. Mayor Crewe thanked Mr. Tarter for informing the Town about this. He noted that so Mr. Tarter will know where the Town is in this matter, he informed Mr. Tarter that the Town had discussions with the Forest Service trying to keep them from closing their office and leaving. Mayor Crewe advised that after that decision was made and the Forestry Service was leaving, the Town had further discussions and the County had discussions about purchasing the property. He noted that, basically, the gist of those discussions was that they wanted fair market value and would not consider anything less, and if they could not get fair market value, they would sell it at an auction. Mayor Crewe remarked that as far as the Town has been able to determine so far, the Forest Service has not had any party offer what the Forest Service thought was fair market value, so the property has to be declared surplus, which the Town thinks the Forest Service has done. He noted that after it is declared surplus, the Forest Service can sell it at an auction. Mayor Crewe indicated that Mr. Tarter is correct, and the Town has been checking the web site, and the property is not on the web site yet. He noted the letter states the property will shortly be listed, so they are moving through the process. Mayor Crewe noted that Mr. Tarter is correct, and it is a good time for the Town to look into what right of way exists and what the Town may do about the street. He advised that the other issue the Forest Service will have is that the property is zoned R-1 Residential, and when it came into town, it was zoned R-1 Residential. Mr. Tarter advised that the property is zoned residential, and it will have to be sold that way. Mayor Crewe indicated that is correct, and advised that this may be a point of contention for the Forest Service in their discussions because the Town does not believe that the Forest Service can operate the building as an office complex any longer. He stated that all of these are topics in discussion, but it sounds like the Forest Service is moving ahead with an auction sale, and the Town needs to keep up with that. Mayor Crewe reiterated his thanks to Mr. Tarter for making the Town aware of this matter. Mr. Tarter thanked the Council for listening to his comments. Mayor Crewe thanked Mr. Tarter for attending the meeting and for his help in this matter. Councilman Jones inquired if the Council was going to direct the Public Works Committee to review this matter. Mayor Crewe directed the Public Works Committee to investigate this right of way matter and directed Town staff to research and review this right of way.

Mrs. Patty Harman was recognized and stated she brought a picture of her neighbor's property. She noted this matter is a problem for them and for her neighbor as well. She inquired if she could present this information to the Council. Mayor Crewe advised Mrs. Harman that Council will accept the information. Mayor Crewe inquired if the neighbor's property is unsightly with vegetation, etc. Mrs. Harman explained that her neighbor does not have any rear yard, and she only has three inches on one side of her house, and four inches on the other side of her house in the back, and that is also the back of their property. She advised that in order for her neighbor to come around and wash her windows, clean her gutters, or get somebody to work on that part of her roof, she would have to be on their property. Mayor Crewe inquired if Mrs. Harman's neighbor's property is on Ridge Street and fronts on Ridge Street. Mrs. Harman stated that is correct. Mrs. Harman pointed out that it is not that they are mean neighbors, but basically the issue is with liability, and that is the way they see it. She explained that if someone was to fall off onto their property while working on her neighbor's roof, they would be liable. Mrs. Harman noted that their neighbor did threaten a lawsuit. She advised that her neighbor had mentioned adverse possession of their property, but indicated she did not think her neighbor would be able to do that. Mrs. Harman remarked that she thinks the Town does have a responsibility in this matter, and they are hoping that something can be done. She stated she is not sure exactly what could be done. Mrs. Harman indicated that she wants her neighbor to be able to work on her house, but yet, at the same time, she does not want her neighbor to have to come over on their property to do it. Mayor Crewe remarked that if he recalls correctly, this is a nonconforming lot because the way it was divided, there were no setback lines or anything of this nature. He inquired if anyone on Council recalls, and noted that the Council has looked at this in the last couple of years. Town Manager Sutherland noted that is correct and stated it is clear that the house is right on the property line. Mayor Crewe indicated that there are two lawyers sitting in this room, and noted he would advise Ms. Harman to consult a lawyer. He commented that if someone falls off the neighbor's roof onto Ms. Harman's property, he cannot see how the Harmans would be liable unless they somehow did something that caused the injury. Mrs. Harman inquired if their liability insurance would not have to pay if someone was hurt. Mayor Crewe stated whoever was negligent would be responsible. He noted that a person has to do something wrong or fail to do something that should be done in order to be responsible for something. Mayor Crewe reiterated that he did not see how Mrs. Harman would have a liability issue if someone falls off her neighbor's roof. Town Attorney Kaase interjected that this is in Mayor Crewe's opinion. Mayor Crewe noted that is correct and this is what he is stating. Mrs. Harman indicated that because it is so close, they are also concerned about a fire as far as for her neighbor's safety and their safety. Mayor Crewe pointed out that he did not think the Town can adjust the lot line. He stated he does not know of any mechanism to do this. Mayor Crewe explained that the property was divided, and he does not know how or why it was divided this way, but it was not done by the Town, so it cannot be undone by the Town. He reiterated that he does not know how the Town can fix this because the Town did not cause the problem. Mrs.

Harman noted that in 1988, the property sat empty for over two years, and inquired if it is her understanding that whenever there is a nonconforming issue like that, and it is empty for over two years, if this should not have, at that point, been sold as a residence. Mayor Crewe explained that this is not a zoning issue, it is a property line issue. He remarked that the property line is wherever it is placed. Mayor Crewe noted that the Town did not set the property line, and the Town cannot change the property line. He pointed out that this is not a nonconforming use. Mayor Crewe remarked that it would not be a lot for which a building permit could be granted without meeting the setback requirements, but there is no building permit required. Town Manager Sutherland explained that in those kinds of situations, what nonconforming is really describing is a use that is not otherwise permitted in that zoning district. He noted that, obviously, in that zoning district, residential activities can occur. Town Manager Sutherland stated if it had been a business entity that had ceased for two years, that could not continue, but residential dwellings are permitted in a residential district. He continued that he did not think the two year nonconforming issue applies with this. Mayor Crewe explained that it is not the use that is the problem, but it is the lot line that is the problem. Councilman Jones noted that it is like on Fisher Road where Mr. Pendleton grazes cattle. He advised that this is an R-1 Residential zone, and as long as Mr. Pendleton allows cattle to graze, then Mr. Pendleton can continue even though it is not permitted in an R-1 Residential District, and because this was grandfathered, Mr. Pendleton can graze cattle. Councilman Jones indicated that if Mr. Pendleton ceased, then after two years, he could never start grazing cattle again. He stated that under this circumstance, since a house is a residence, and that is permitted in an R-2 Residential District, there is not much the Town Council can do with respect to that. Vice-Mayor King inquired if in the photograph Mrs. Harman presented her neighbor is depicted standing on her property. Mrs. Harman answered that is correct. Vice-Mayor King inquired if Mrs. Harman advised that her neighbor had three inches in the back of her house. Mrs. Harman stated that her neighbor has three inches on one side and four inches on the other side. Vice-Mayor King advised that Mrs. Harman's neighbor has a big front yard. Mrs. Harman stated that is correct. Vice-Mayor King indicated that it is odd that it happened this way. Mrs. Harman remarked that she thinks the reason that it happened is that from what she traced back, when the property was sold originally, she did not think the five foot addition was on her neighbor's house. Town Manager Sutherland noted it has been a long time, and inquired if her neighbor's house was a tenant house to Mrs. Harman's property. Mrs. Harman advised that she has heard that her neighbor's house used to be the carriage house for her property back originally when their house was built. She noted that the house was moved to the rear of the property, and the old foundation was torn up, and a gentleman told them that he tore the foundation up, and they knew it was out by the road. Vice-Mayor King depicted on the picture the addition on Mrs. Harman's neighbor's house and inquired if that is correct. Mrs. Harman advised that is correct. She noted that her neighbor recently told her husband that she wants to put a patio on the side, and that she wants a fence down through there. Mrs. Harman remarked that if her neighbor is already wanting to come around in the back and work on her house, then if she constructs a patio, it is just going to be going on up the line. Mayor Crewe inquired if Mrs. Harman's neighbor wants to put a patio on the backside. Mrs. Harman noted that is correct. Vice-Mayor King pointed out that the neighbor does not have room for a patio. Mrs. Harman advised that she also does not think her neighbor has room to construct a patio. Mayor Crewe stated that if the neighbor has three inches on which to build, she could construct a three inch patio, he presumes. Mrs. Harman advised that she wants to build the patio on the side and not on the rear. Mayor Crewe indicated that Mrs. Harman's neighbor would have to get a building permit and there would be side yard requirements. Mrs. Harman remarked that her neighbor would just be coming up the line with more to do, and having to come over on their property to do more. She indicated that if her neighbor wants to build a patio, she could build it on the front, and that would be fine. Councilman Jones pointed out that the neighbor cannot build the patio on the side next to the Harmans because she does not have enough space. He explained that she has to ask for a building permit, and it would not be granted. Mayor Crewe advised that a building permit would not be granted because of the side yard requirements. Councilman Lambert noted that this would be his understanding. Councilman Lambert inquired of Mrs. Harman if her primary concern is the intrusion into their property by people or the liability issue. Mrs. Harman answered that both of these are concerns because of ever wanting to sell their property, and noted that they probably will not live there forever. She continued that now they are aware of this issue, if they had been aware of it, they would never have purchased this property. She noted that she is thinking if they ever try to sell their property, at some point, it may be a real hindrance. Mayor Crewe reiterated that he did not think there is anything the Town can do to help in this situation. He explained that the real issue is the property line and how the property was divided, and noted he did not think the Town could approve, disapprove, undo, or change a property line dispute like this. Mayor Crewe advised that this is not really a dispute, but the property line is where it is, and the house is so close to the property line. Mrs. Harman noted that there is still an ordinance that states 20 feet from the rear line and inquired if that is correct. Mayor Crewe remarked that it depends on the zoning district. He noted that there are different distances for different zones. Town Manager Sutherland noted there is no question that the house is not situated properly on that lot, but it is there. Vice-Mayor King advised that it probably

happened years ago when there was probably no zoning in Wytheville. Town Manager Sutherland indicated that zoning came into existence in 1952. Mrs. Harman remarked that they have gone all the way to 1950 where there was an ordinance that the Town was supposed to go around in town and correct problems like this, but for some reason, this was not done. Mayor Crewe explained that the Town cannot make someone tear down a structure just because it is too close to the line if it was pre-existing. He noted that the Town cannot change the rule and state that this was acceptable yesterday, and today it is not, and the property owner would have to tear down the structure. Mayor Crewe indicated that what "grandfathered" means is the structure was in existence when the new regulation went into effect. He stated if there was no construction today and that was an empty lot, a person could not build a house that close to the property line today. Mayor Crewe remarked that since the house is already there, he does not believe there is anything the Town can do about it. He noted the house has been there for a very long time. Mrs. Harman advised that they have also spoken to Building Official Massie, and he stated the Town cannot grandfather something that was illegal to do at the time. She indicated that Building Official Massie noted that the house apparently being that close to the property line is not legal. Mayor Crewe pointed out that a house being that close to the property line is not legal now, but, apparently, it was legal when it was done. Mrs. Harman noted that no one knows when this was done. Mayor Crewe advised that he cannot answer that question. He noted he can tell Mrs. Harman that the Council has looked at this, and they do not think there is anything the Town can do. Mayor Crewe stated this is why he noted that Mrs. Harman should talk to an attorney, and possibly the place to start is with the attorney who did the title search when the property was purchased, if a title exam was done. He advised that it may be worth asking the attorney who did the title search. Mayor Crewe remarked that if the Harmans own up to the property line, and the neighbor is three inches over it, an attorney would not find that in doing a title search for the Harman's property, and, ordinarily, an attorney would not be looking at the adjoining piece of property. He stated if they did a title search, this might be the place to look and see about this. Mayor Crewe advised that he knows the house has been there a long time. He noted he has been in Wytheville for 30 years, and the house has been there longer than that, so he knows the house goes back at least that far. He stated he just does not think there is any way the Town can make someone tear the house down and move it because of the property lot line. Mayor Crewe indicated that he does not know what was done, why it was divided, and when or where or how, but the last time the Council looked at this, it was so long ago that the statute of limitations had expired, and the Town cannot do anything to move it or make someone relocate the house or move the property line. He noted the Town did not have anything to do with this, they did not draw the property lines, and they did not approve the property lines back when it was done apparently, and this is the best information the Town can find. Mrs. Harman indicated that at some point, her neighbor's house was added on to, and that five feet was enclosed because it still is the enclosed porch area and part of the foundation. Mayor Crewe stated that could be, but, again, there is a statute of limitations issue. He noted if the Town had illegally or improperly granted a building permit, and advised that he does not know if the Town granted a building permit for the addition or when it was done, but reiterated that if the Town had improperly granted a building permit, there is a time limit with which someone can complain about that, and this time limit passed a long time ago. Mayor Crewe noted that even then, he did not think the remedy is to tear it down, but he thinks the remedy is monetary damages. He indicated that he does not know of anything the Town can do to fix this situation the Harmans are in. Mrs. Harman advised that recently, too, her neighbor told her husband that her attorney told her she could come around the rear of their property and do whatever she wanted to twice a year, and if she needed to call the police to enforce this, for her to call the police. She advised that since they have sent their neighbor a letter not to trespass, she does not think the Town should be sending the police to tell their neighbor that she can trespass on their property. Mayor Crewe noted he does not think the Town would send a police officer to tell Mrs. Harman's neighbor she can trespass. Mrs. Harman advised that maybe her neighbor's attorney did not state this. Mayor Crewe remarked that he thinks what Mrs. Harman is talking about, and noted he knows exactly what the reference is, and explained that Mrs. Harman cannot interfere with her neighbor's private enjoyment of her property, and the neighbor cannot interfere with the Harmans' private enjoyment of their property. He continued that neither Mrs. Harman nor her neighbor has the right to do anything to the other. Mrs. Harman indicated that they have also asked about fencing their property, and they were told by the Building Official that they cannot fence directly behind their neighbor's house because it could cause the neighbor's house to rot off. Mayor Crewe noted that the fence would be interfering with the neighbor's enjoyment of her property. Ms. Harman indicated that this is interfering with her right to fence Mrs. Harman's property. Mayor Crewe indicated that the Harmans and their neighbor have a problem, but the Town did not cause this problem, so the Town cannot fix the problem. He reiterated that he does not know of any solution from any source. Councilman Jones inquired why the Harmans could not fence off their property. Mayor Crewe remarked that the Harmans cannot fence that close to the property line. Councilman Jones inquired if the fence is on her property what the difference would be. Mayor Crewe answered that a person cannot place a fence on the property line. Vice-Mayor King noted that the Harmans could move the fence over on her property. Town Attorney Kaase advised that she can fence 12 inches on her

side of the property. Mayor Crewe noted that is correct. Mrs. Harman noted that even if they fenced a few inches over, the Building Official said that it could cause her house to rot on the back, and then they would be liable for rotting her house because they erected a fence. She advised, therefore, they cannot fence their property. Councilman Jones inquired of Assistant Town Manager Moore if he had any comments regarding this matter. Assistant Town Manager Moore advised that he does not have any comments. Councilman Jones noted that he would like for the Town to look at this particular issue. Town Manager Sutherland interjected that he thinks the Harmans can fence their property. Councilman Jones advised that he agrees. Mayor Crewe noted that as long as the Harmans' fence complies with the Building Code, he thinks the Harmans can put up a fence on their property. Mrs. Harman inquired as to what happens if this fence causes her neighbor a problem. Mayor Crewe reiterated that Mrs. Harman needs to talk to a lawyer that represents her, but advised that a fence on the Harmans' property is irrelevant. He noted that if it is a legal fence, and it is legally situated and properly constructed, he does not think there is any harm that comes from that. Mrs. Harman noted she thinks the best suggestion would be for her neighbor to tear off the five feet on her property and build her additions on the front of her house, and then she can do anything she wants to with her property. Mayor Crewe stated he would suggest that Mrs. Harman bring a lawsuit and ask the court to order that because the Town cannot order it, and this is, basically, where they are. He reiterated that this is why he has stated he does not know how the Town can fix the problem because the Town did not cause the problem. Mrs. Harman inquired if there is a Board of Appeals that they can talk to about this. Mayor Crewe noted there is no Board of Appeals. He stated there is no mechanism for the Town to address this problem in any fashion including the Town Council or any agency of the Town or any board or committee of the Town. Mayor Crewe noted there is no way for the Town to step in and fix this. Councilman Jones advised that if the Harmans wanted to take this to the Board of Zoning Appeals, they could. Mayor Crewe pointed out that this is not a zoning issue. Councilman Jones noted he is not arguing that there is not a zoning issue, but he is stating the Harmans can do that and then see what happens. He stated he does not think the Board of Zoning Appeals is going to do anything, but Mrs. Harman does have this avenue. Mrs. Harman stated she would like to do whatever she can short of going to court. Town Manager Sutherland inquired of Councilman Jones as to what the nature of the appeal would be. Councilman Jones advised he does not know what the appeal would be, but he is stating she could go before them. Mayor Crewe explained that there is a Board of Zoning Appeals, and if someone disagrees with a building permit issue or something like that, a person can take it to the Board of Zoning Appeals. He advised he does not know how this issue could come before them, and this is what Councilman Jones is stating. Mayor Crewe remarked that there is an entity, and there is a Board of Zoning Appeals that is appointed by the court on a recommendation from the Town Council. He explained that Mrs. Harman could file an application to have them look at this, investigate it, or rule on it, but reiterated that he does not know what the zoning issue would be. Mayor Crewe stressed that this issue does not fit what the Board of Zoning Appeals usually considers, but noted that the Harmans are welcome to try. He noted it is up to the Board of Zoning Appeals to decide that. Mayor Crewe pointed out that the Board of Zoning Appeals is independent of the Town Council. Town Manager Sutherland advised that this is rather clear it is a civil issue between two abutting property owners. Mayor Crewe noted this is why he stated the only issue is to go to court. Mrs. Harman inquired as to how she would go before the Board of Zoning Appeals. Town Manager Sutherland noted that in the Town Office, the Town Clerk has the applications to go to the Board of Zoning Appeals. Councilman Lambert advised that he has served on the Board of Zoning Appeals, and indicated that he would doubt the Board of Zoning Appeals would be in a position to grant any type of relief. He explained that the Board of Zoning Appeals can grant a variance, but this has to do with a different type of situation. Councilman Lambert noted he does not know how the Board of Zoning Appeals could address the Harmans' problem. Mrs. Harman inquired if there are any other situations in the Town like this at all. Town Manager Sutherland stated he is sure there are other situations such as this in the town. He noted there are a lot of older homes, and indicated he is sure there are other nonconforming structures. Mrs. Harman advised that she knows this, but she is talking about within inches of the property line. Town Manager Sutherland advised that he does not know. Councilman Jones indicated that there is one out on Tremough Drive. Mayor Crewe inquired if there is not the same situation on some property behind John Fox's dealership. Town Manager Sutherland noted that Mayor Crewe is referring to Thompson's Alley. Mayor Crewe noted there is also the same issue on a place off of Marshall Street behind the church and inquired if that is correct. He stated it is between the church on Marshall Street and Wythe Sheet Metal and inquired if that is correct. Town Attorney Kaase advised that there was also this problem on Monroe Street. Vice-Mayor King inquired if Mayor Crewe is referring to the little blue church. Mayor Crewe stated that is correct. He pointed out that the house that burned on Monroe Street was nonconforming, and the Town thinks the house was too close to the lot line, but the house burned down, and the issue is going to be when the property owners try to rebuild, and they will have to rebuild the house in a different footprint, if they try to rebuild it. Mayor Crewe summarized that there are several situations that the Town is aware of, but they have not caused as much problem as this situation, or at least the Town has not heard about it. He noted that, again, there is nothing in any of those cases the Council has discussed in which

the Town has taken any action because there is nothing the Town can do to fix these situations because the Town did not cause the problems. Mrs. Harman advised that she will go to the Board of Zoning Appeals then and see what they think. She thanked the Council for their time. Mayor Crewe thanked Mrs. Harman for attending the meeting.

Mayor Crewe noted that according to the sign up sheets, this was everyone who wanted to speak. He inquired if there are others who wished to address Council during Citizens' Period. There being none, he proceeded with the agenda.

RE: OLD BUSINESS

Under Old Business, Town Manager Sutherland reported the following:

1. The Public Works Committee will not meet this week, however, the Budget and Finance Committee will meet on Thursday morning.
2. Next Monday evening, the Joint Governing Bodies will meet in Rural Retreat at 7:00 p.m.
3. Since it is a fifth week next week, neither Council Committee will meet.

RE: BUDGET AND FINANCE COMMITTEE REPORT

Vice-Mayor King, reporting for the Budget and Finance Committee, reported recently, the Town has been contacted by loan representatives from Davenport & Company who is one of Virginia's oldest and largest investment advisory firms. She noted that they have reviewed the Town's current debt service, excluding the Community Center, and have determined that it would probably be in the Town's best interest to refinance all of the Town's existing Rural Development loans. Vice-Mayor King indicated that currently, the Town has slightly over \$9.5 million in Rural Development loans, all of which have a 4.5 percent interest rate. She explained that under current conditions, Davenport & Company advises that the Town's new interest rate, with refinancing, would be established somewhere between 3.8 percent and 4.0 percent which would result in an approximate \$27,000 reduction in annual debt service and would shorten the term of these loans by about eight years. Vice-Mayor King noted that the Committee thinks this is a worthwhile financial review, and the Committee would recommend that the Town Manager be authorized to pursue this refinancing. She stated that at this point, the Committee is not recommending the Council proceed, but that the Town gather the information for Council's review. Mayor Crewe advised that this comes as a recommendation from the Budget and Finance Committee, and Councilman Lambert discussed it in the Public Works Committee. He noted unless someone objects, the Council will proceed that way. Councilman Lambert advised that this is acceptable to him. It was the consensus of the Council to ask the Town Manager to pursue the refinancing so the Council can consider it later.

Vice-Mayor King also reported that on two separate occasions, Mr. John Largen with John Largen & Associates, Incorporated has made a presentation to the Council concerning the potential for entering a public-private partnership for new facilities for the Town's Emergency Services. She advised that with the continued growth of town, there is no doubt that there will be increasing pressures for additional facilities to house the Town's police, fire, and dispatching operations. Vice-Mayor King stated that under the proposal provided by Mr. Largen, he would acquire a parcel of property and would either renovate or construct facilities meeting the Town's specifications for an Emergency Services facility. She indicated that under the provisions of the Public-Private Enterprise Applications Project, the Town would then lease those facilities in a lease-to-purchase arrangement. Vice-Mayor King noted that while the Committee is very appreciative of the efforts made by Mr. Largen toward this venture, the Committee does not feel that the Town is financially in a position to pursue yet another large capital outlay project at this time. She advised that, therefore, it would be the recommendation of the Budget and Finance Committee that the Council advise John Largen & Associates that the Council is not in a position to proceed with this offer and extend to him the Town's appreciation for his efforts. Mayor Crewe indicated that at this time, that is the recommendation from the Budget and Finance Committee, and if the Council does not like it, they will have to make a motion to do something differently. A motion was made by Councilman Lambert that the Council go into a closed meeting and discuss this further. He indicated that he thinks perhaps at this time that the Council needs to discuss this whole thing and not act so quickly. Mayor Crewe noted that, certainly, Councilman Lambert is entitled to make the motion. He stated he would ask that the Council finish the agenda and then do the closed meeting last. Councilman Lambert stated that is acceptable. Mayor Crewe explained that what the Council is discussing is going into closed session which requires everyone attending the meeting to leave the room during the closed meeting. Mayor Crewe indicated that the Council will come back and discuss the closed meeting with the motion. Mr. Danny Gordon with WYVE/WXBX requested to address the Council. Mayor Crewe noted that Mr. Gordon can address the Council. Mr. Gordon stated that

based on the fact that the Council has previously discussed the acquisition of the property, the Council cannot go into a closed meeting, he does not think, under that guideline. Mayor Crewe thanked Mr. Gordon for his comments, and noted that the Council will consider this later in the meeting when this matter is discussed. He indicated to Mr. Gordon that his point is well taken. Mayor Crewe inquired if that is all the report from the Budget and Finance Committee. Vice-Mayor King stated that is correct. A copy of the Budget and Finance Committee report is attached and made part of these minutes. ([Attachment](#)).

RE: PUBLIC WORKS COMMITTEE REPORT

Councilman Lambert, reporting for the Public Works Committee, reported that earlier this year, there were several citizens at a meeting of Council who expressed their concern about various entrances into town. He advised that the citizens noted that they felt it was important that the Town be proactive in assuring that the Town's entrances remain attractive. Councilman Lambert explained that this matter was sent to the Planning Commission who has had it under review for several months. He pointed out that one of the identified steps that could be taken to ensure attractive entrances was the rezoning of property along Peppers Ferry Road from Cove Road eastwardly to Interstate 77. Councilman Lambert remarked that currently, all of this property is zoned M-1 Industrial which means that industrial type activities could be established on one of the primary entrances into town. He stated that the Planning Commission, at their meeting two weeks ago, held a public hearing regarding the proposal to revise the zoning in this area from M-1 Industrial to B-1 Business. Councilman Lambert advised that following the public hearing, the Planning Commission had a tie vote on whether to recommend the rezoning to the Town Council. He noted that the Public Works Committee discussed this at their meeting and the Committee feels that the rezoning is a topic that the Council needs to consider. Councilman Lambert explained that without some type of rezoning of these lands, it will be difficult to ensure that the Town can maintain attractive entrances into town. He stated it would be the recommendation of the Public Works Committee that the Council review this topic and ultimately set a public hearing to consider the rezoning as described. Mayor Crewe noted that this is the recommendation of the Public Works Committee. He inquired if anyone objects to setting a public hearing. It was the consensus of the Council to set a public hearing to consider rezoning all M-1 Industrial property along Peppers Ferry Road to B-1 Business. Mayor Crewe indicated that he thinks it will be necessary to set the public hearing for the second meeting in August in order to meet the advertising guidelines. He noted it is the consensus of the Town Council to set this public hearing for the earliest legal time, which he thinks is the second meeting in August. Town Manager Sutherland advised that the public hearing could be held for the first meeting in August. Mayor Crewe indicated that the Town Council will hold this public hearing at the first available meeting after the time period for advertising.

Councilman Lambert also reported that the Committee received a request for the installation of "Stop" signs on all intersections on Mountain View Drive between Fisher Road and Cove Road. He stated the essence of this request is that there would be a three-way stop situation at Mountain View Drive and 17th Street and at Mountain View Drive and 11th Street, with a four-way stop situation at Mountain View Drive and 13th Street. Councilman Lambert noted that their Committee has reviewed this request, and they do not think that these additional "Stop" signs are needed. He stated it would be the recommendation of the Public Works Committee that the Town not install these additional "Stop" signs on Mountain View Drive. Mayor Crewe indicated that since the recommendation is not to install them, if someone disagrees they can make the motion to install them. He noted that hearing no such motion, then the Council will not install the additional "Stop" signs. A copy of the Public Works Committee report is attached and made part of these minutes. ([Attachment](#)).

RE: APPOINTMENTS – CHILD CARE ADVISORY BOARD

Mayor Crewe noted the next agenda item is the reappointment of members to the Child Care Advisory Board to fill the expiring terms of Mr. Nick Patel, Ms. Kathy Brooks, and Ms. Angela Powers whose terms expire August 8, 2007. He advised that all three of these members have indicated a willingness to serve again and are eligible for reappointment. A motion was made by Councilman Jones and seconded by Vice-Mayor King to reappoint Mr. Nick Patel, Ms. Kathy Brooks, and Ms. Angela Powers to the Child Care Advisory Board. 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., H. Judson Lambert. Against: None.

RE: PEPPERS FERRY ROAD REZONING

Mayor Crewe stated the next agenda item is to consider the recommendation of the Planning Commission regarding rezoning all M-1 Industrial property to B-1 Business in the following areas: (1) the area bounded by Peppers Ferry Road, Cove Road, and Interstate 81; (2) the area

bounded by Peppers Ferry Road, the north boundary of Hedgefield Terrace Apartments, the northeast boundary of Wytheville Community College, and Interstate 81; (3) the area bounded by Peppers Ferry Road, Interstate 81, and Interstate 77. He noted that the Council just discussed this during the Public Works Committee Report, and advised that the Council has already taken care of this agenda item previously by setting a public hearing on the matter. Mayor Crewe inquired if anyone has any questions or comments about this. There being none, he proceeded with the meeting.

Mayor Crewe advised that this concludes everything on the meeting agenda, and now the Council will consider Councilman Lambert's motion for a closed meeting.

RE: MOTION FOR CLOSED MEETING

Mayor Crewe noted that Councilman Lambert made a motion to go into a closed meeting. He noted he will read the motion, which would be to go into a closed meeting in accordance with State Code §2.2-3711-A(3) for the purpose of the consideration of the acquisition of real property for a public purpose. Mayor Crewe advised that this is the motion and inquired if there is a second to the motion. There being none, the motion died for lack of a second. Mayor Crewe informed Councilman Lambert that his motion died for lack of a second, and the Council cannot go into a closed meeting. He advised that the Council has to have a second to discuss it further and to get the motion discussed. Mayor Crewe indicated that since there is no second, the motion dies for lack of a second, and the Council will not go into a closed meeting.

He noted that having stated this, and having stated that the Council has completed the agenda, he inquired if there is anything the Council would like to discuss before the Council adjourns, which the Council can do or they can discuss it in Committee meeting. Councilman Lambert advised that he would like to discuss the acquisition of the real property, if the Council members are willing. Vice-Mayor King noted that this is acceptable. Councilman Jones noted that the Council will listen to Councilman Lambert's comments.

RE: ACQUISITION OF PROPERTY

Councilman Lambert stated that he thinks what the Council has with this property is an opportunity that they are about to bypass. He noted that there is a piece of property that the Council can acquire, he believes, for a reasonable amount of money. Councilman Lambert remarked that by acquiring this property, the Town can preserve what he thinks is a landmark, and it is a good building, and the Town can make a use of it. He stated if the Town bought the building at the so called reasonable price and put a roof on it, the Town would probably come up to the end of the day with a building that is 142,000 square feet at a square foot cost of about \$13. Councilman Lambert pointed out that the Town cannot build storage space for that price. He stated that the Council is probably going to have a situation in the future when the Town is going to need additional parking for the Community Center, and remarked that he thinks one of the first and worst things that could happen is that the Town would have a big event scheduled there, and people come and cannot park. Mayor Crewe indicated that the proposal that the Committee recommended is that the Council not proceed with is to lease to purchase the building. He noted that Mr. Lagen also stated in his presentation that he would be willing to talk about the parking lot and/or the green space as an outright purchase, but he did not have any facts, figures, or information available on that. Mayor Crewe indicated that in the Budget and Finance Committee meeting, his recollection is the Committee would separate those two pieces from the building and inquired if that is correct. He inquired if the Budget and Finance Committee may be willing to consider further discussions to get the parking lot or the green space, but not the building. Vice-Mayor King noted that she will tell the Council her position. She stated that she feels like the Town is in debt, and the Council needs to get some of the debt paid down. Vice-Mayor King noted that she guesses she does not understand why the Council would want to buy into somebody else's building that the Town is not going to own the whole building. Councilman Lambert advised that he understands what Vice-Mayor King is stating. Vice-Mayor King indicated that this would be like her buying one room, and some of the other Council members buying another room, and she inquired as to who would own what. Councilman Lambert indicated that this has been done, but remarked that he will agree with Vice-Mayor King that at this stage in the game, the Council should not consider that. He noted what he thinks the Council should do is consider buying the entire property. Vice-Mayor King remarked that the Council talked about that once before when they were looking at the Community Center, and the Council could have purchased the building at that time, but did not feel it was proper or satisfactory for what the Town needed. She pointed out that they love the location, and they love the land and the wooded area, but noted that the Council members represent the people of the Town of Wytheville, and she does not think the citizens would appreciate the Council spending that kind of money at this particular time. Councilman Lambert inquired if Vice-Mayor King has calculated the cost and the impact on the individual taxpayer to acquire the property. Vice-Mayor King stated she has not calculated the cost per individual

taxpayer. Councilman Lambert noted if Vice-Mayor King did this, she would realize that in a worst case scenario, the impact on the individual homeowner in Wytheville is nominal. He advised that he thinks this property has such a potential to address so many problems that the Town has that it would just be a poor decision for the Council to not at least discuss this further and see if the Town cannot work out some arrangement. Vice-Mayor King indicated that as far as she knows, the Council has discussed this in both Committee meetings, and she noted that she did not know, but maybe Councilman Lambert was the only one who really was not in agreement for the Council not to do this at this particular time. Councilman Lambert advised that the problem is if the Council does not acquire this property now, this property is going to move off the market and will be gone. Vice-Mayor King inquired of Councilman Lambert as to where the Council is going to get the money to pay for the property. Councilman Lambert indicated that if the Council desired, he will be glad to sit down and work on this. Vice-Mayor King inquired of Councilman Lambert as to how the Council is going to pay for this property. She stated the Council has to pay for the property. Vice-Mayor King noted that the Town can borrow the money. Councilman Lambert noted that is correct. Vice-Mayor King inquired how the Council is going to pay for the building. Councilman Lambert stated if the absolute worse thing happens, the Council would have to go back and explain their situation to the taxpayers of Wytheville and state this is what the Council is confronted with, and this is the value the Council sees in this property, and this is what it would cost. He noted the Council would have to be able, if the Council thinks this is a good decision, to stake their particular careers on the action. Vice-Mayor King pointed out that the Town has the Regional Water Authority where they are building the new water treatment plant. Councilman Lambert noted that is correct. Vice-Mayor King remarked that this is not coming cheap. Councilman Lambert advised that is correct, but, fortunately, at the time that the Council would probably be moving into an outlay on this property, the Water Authority should be completed, and the Town would be producing revenue from it. Vice-Mayor King inquired if this would be a lot of revenue. Councilman Lambert noted that the Town will be producing a considerable amount of revenue from it. Vice-Mayor King noted that is not correct. Councilman Lambert stated it would be enough revenue to cover the Town's cost at least. Vice-Mayor King stated she did not think this is correct. Councilman Jones interjected that he does not think the Council wants to get him started on the cost to the taxpayers after the recent 4-1 vote on the budget, and the Council does not want him to get into the percentages on how the Council has raised taxes in the last two years. Councilman Lambert advised that he knows this, he understands it, and he would be willing to talk percentages and impact. Councilman Jones remarked that to him, the three things the Council has to look at is the cost that is being proposed, and, secondly, the Council needs to look at the fact if they can provide a fire station/police station addition down where the present building is located at probably a less cost or at least equal to what it would cost the Council to purchase it. He noted the third thing is in the Council's discussions on E-911, he thinks it is rather clear that the Council does not know what is going to happen, but if it happens, it is not going to be in Town anyway as far as the location. Councilman Jones summarized that the Council is not going to get a favorable vote out of him one way or the other right now. Vice-Mayor King pointed out that she knows that Councilman Weisiger is not in favor of this acquisition either. Mayor Crewe stated he will express his opinion. He noted the two big concerns he has is first, the Council had looked at buying this property before in different partnerships either with the County or the Community College. He indicated that the Town had approached the original sellers and decided then that it was not a good deal, no matter how the Town partnered, and indicated that he guessed what he worried about now is that by the time Largen takes it and has to make his share, and the Council buys it from Largen & Associates, even with a lease-purchase, the Town is paying more than what the Town would have if there would not be a middle man in the situation. Mayor Crewe indicated that if it was not a good deal for the Council to buy the property outright, it seems less of a good deal to buy it from someone else who bought it. He noted the second thing he has voiced several times is that Mr. Largen is telling the Town what they need in terms of square footage, areas, designs, etc. more than what the Council is telling him what the Town needs. Mayor Crewe noted that this is what he worries about is a needs assessment, and the Council needs to figure out exactly what they need before they go buying something that may or may not fit. Councilman Lambert stated he can understand that concern. Vice-Mayor King advised that she could never understand exactly how this all came about all of the sudden. She inquired where this matter came from. Mayor Crewe stated that Mr. Largen came to the Town. Vice-Mayor King noted that is correct, but pointed out that he came to the Council and presented to them what he thought the Town needed. Councilman Lambert advised that he is the instigator, but it was not with an evil intent. He explained that Mr. John Largen was in town, and noted that Mr. Largen married John Ward's daughter, Jackie, which has been a good friend of his for quite some time. Councilman Lambert noted that Mr. Largen was in Wytheville visiting, and they drove past that building, and he commented that the Council had looked at this building in the past. He remarked he told Mr. Largen that he felt this is something the Council should really take a serious look at, and the Town was going to need property for a fire station at some point in time, and this would probably be, he felt, a very good location because of its proximity to the interstate, and the Town could get things in and out in a hurry to any part of the County and to the industrial park. Councilman Lambert remarked that the

Council, at this time, does not know truly what the Town needs in the way of fire fighting equipment. He noted his feeling is if the Council goes ahead, and noted the Council is going to take some risk, but advised that the Council is at the point in the development of this town that the Council is going to assume some risk. Councilman Lambert remarked that the Council is going to have to do some things that are bold, and, perhaps, not totally comfortable. He commented that if the Council acquires this property, they have the time to go back and do the in depth study and see what the Town really wants and needs to do. Councilman Lambert pointed out that if the Council delays, this property is going to move off the market, and the Council will never have that chance again. He stated he thinks this is worth taking some risk to acquire the property. Vice-Mayor King inquired how long the property has been sitting there for sale. Mayor Crewe noted it has been vacant for four or five years at least. Vice-Mayor King noted that is correct or possibly longer. A citizen inquired if the Council is discussing the Alco Controls building. Councilman Lambert stated that is correct. Vice-Mayor King stated she appreciated Councilman Lambert's honesty because she never could figure out how this got that far and the Council had not previously discussed it. Councilman Lambert advised that this is how this matter came about. Vice-Mayor King reiterated her thanks to Councilman Lambert for being honest about the matter. Councilman Lambert stated that Mr. John Largent has a genuine interest in the community. Vice-Mayor King stated that she understands this. Councilman Lambert noted that Mr. Largent thought this would be of some benefit to him because he is in the business of making a profit, and to the Town because the Town has certain needs that the Council is going to have to look at and do something with. Mayor Crewe remarked that he does not think anyone attributes ill motives or anything like that toward anyone. Vice-Mayor King stated that is correct. Mayor Crewe advised that the timing is not right or it just did not fit for whatever reason, and there is just not enough support to get this done right now. He commented that Councilman Lambert is at liberty to keep explaining, discussing, and persuading. Town Manager Sutherland noted that the time schedule that has been imposed on Mr. Largent creates a problem. Councilman Lambert stated that is correct.

RE: BOY SCOUTS TROOP 197

Mayor Crewe stated he appreciates Boy Scouts Troop 197 attending the meeting. He explained that what the Boy Scouts just saw is democracy in action, and the Council may not always agree on what they are going to do. Mayor Crewe indicated that it was one Council member trying to persuade another Council member to do something. He noted, for example, if he wants to do something and someone else does not want to do it, he has to talk that person into doing it and try to convince the person that his opinion is better than his/hers and get that person to change his/her mind. Mayor Crewe summarized that this is basically what the Boy Scouts just saw going on is that the Council is trying to have a frank, open public discussion as to what the Council needs to do and why it needs to do it. He stated this is basically how government works. Vice-Mayor King pointed out that the Council members are not mad at one another. Councilman Lambert stated that is correct and that he is not mad. He advised that he is disappointed but not mad. Vice-Mayor King advised that she is sure Councilman Lambert is disappointed. Mayor Crewe explained that this was what the discussion was all about. He thanked the Boy Scouts for attending the meeting. Mayor Crewe inquired if the Boy Scouts has any questions or comments for the Council that they need to do to qualify on a merit badge or some other reason that may have had the Boy Scouts attending the meeting. The Scout Leader advised that it was not a boring meeting. Mayor Crewe noted that the Boy Scouts chose a good meeting, and it was not a boring meeting. The Scout Leader indicated that their guidelines state to choose an item where a difference of opinion was expressed, and this happened. Mayor Crewe reiterated his thanks to the Boy Scouts for attending the meeting and for leading the Pledge of Allegiance. He noted that the Council is glad to have the Boy Scouts at the meeting and invited them to attend a meeting at any time.

RE: ADJOURNMENT

There being no further business to be discussed, a motion was duly made, seconded, and carried to adjourn the meeting (7:50 p.m.).

Trenton G. Crewe, Jr., Mayor

Sharon G. Corvin, Chief Deputy Clerk

BUDGET AND FINANCE COMMITTEE REPORT

JULY 23, 2007

1. Recently, we have been contacted by loan representatives from Davenport & Company who is one of Virginia's oldest and largest investment advisory firms. They have reviewed our current debt service, excluding the Community Center, and have determined that it would probably be in our best interest to refinance all of our existing Rural Development loans. Currently, we have slightly over \$9.5 million in Rural Development loans, all of which have a 4.5 percent interest rate. Under current conditions, Davenport & Company advises that our new interest rate, with refinancing, would be established somewhere between 3.8 percent and 4.0 percent which would result in an approximate \$27,000 reduction in annual debt service and would shorten the term of these loans by about eight years. We think this is a worthwhile financial review, and we would recommend that the Town Manager be authorized to pursue this refinancing. At this point, we are not recommending that we proceed, but that we gather the information for Council's review.
2. On two separate occasions, Mr. John Largen with John Largen & Associates, Incorporated has made a presentation to the Council concerning the potential for entering a public-private partnership for new facilities for our Emergency Services. With the continued growth of town, there is no doubt that there will be increasing pressures for additional facilities to house our police, fire, and

dispatching operations. Under the proposal provided by Mr. Largen, he would acquire a parcel of property and would either renovate or construct facilities meeting the Town's specifications for an Emergency Services facility. Under the provisions of the Public-Private Enterprise Applications Project, the Town would then lease those facilities in a lease-to-purchase arrangement. While we are very appreciative of the efforts made by Mr. Largen toward this venture, we do not feel that we are financially in a position to pursue yet another large capital outlay project at this time. Therefore, it would be the recommendation of the Budget and Finance Committee that we advise John Largen & Associates that we are not in a position to proceed with his offer and extend to him our appreciation for his efforts.

Jacqueline K. King

John W. Jones, Jr.

PUBLIC WORKS COMMITTEE REPORT

JULY 23, 2007

1. Earlier this year, there were several citizens at a meeting of Council who expressed their concern about various entrances into town. They noted that they felt it was important that we be proactive in assuring that our entrances remain attractive. This matter was sent to the Planning Commission who has had it under review for several months. One of the identified steps that could be taken to ensure attractive entrances was the rezoning of property along Peppers Ferry Road from Cove Road eastwardly to Interstate 77. Currently, all of this property is zoned M-1 Industrial which means that industrial type activities could be established on one of the primary entrances into town. The Planning Commission, at their meeting two weeks ago, held a public hearing regarding the proposal to revise the zoning in this area from M-1 Industrial to B-1 Business. Following the public hearing, the Planning Commission had a tie vote on whether to recommend the rezoning to the Town Council. Our Committee discussed this at our meeting and we feel that the rezoning is a topic that the Council needs to consider. Without some type of rezoning of these lands, it will be difficult to ensure that we can maintain attractive entrances into town. It would be the recommendation of the Public Works Committee that the Council review this topic and ultimately set a public hearing to consider the rezoning as described.
2. Our Committee received a request for the installation of "Stop" signs on all

intersections on Mountain View Drive between Fisher Road and Cove Road. The essence of this request is that there would be a three-way stop situation at Mountain View Drive and 17th Street and at Mountain View Drive and 11th Street, with a four-way stop situation at Mountain View Drive and 13th Street. Our Committee has reviewed this request and we do not think that these additional “Stop” signs are needed. It would be the recommendation of the Public Works Committee that we not install these additional “Stop” signs on Mountain View Drive.

William B. Weisiger

H. Judson Lambert