

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE TOWN COUNCIL
HELD IN THE COUNCIL CHAMBERS ON MONDAY, AUGUST 13, 2007, AT 7:00 P.M.**

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

Members absent: John W. Jones, Jr.

Others present: Town Manager C. Wayne Sutherland, Jr., Town Clerk Sharon P. Hackler, Assistant Town Manager Stephen A. Moore, Town Attorney Robert P. Kaase, Police Officer Chris Irvin, Jeffrey L. Harman, Patty Harman, Ann Johnson, Stanley King, Jr., Charlotte Orr

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 Vice-Mayor King 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 July 23, 2007, and the request of the Wytheville Volunteer Fire Department to conduct their annual Fire Prevention Parade on October 13, 2007. A motion was made by Councilman Weisiger and seconded by Vice-Mayor King to approve the consent agenda consisting of the minutes of the regular meeting of July 23, 2007, and the request of the Wytheville Volunteer Fire Department to conduct their annual Fire Prevention Parade 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, William B. Weisiger, H. Judson Lambert. Against: None.

RE: PUBLIC HEARING – PEPPERS FERRY ROAD REZONING

Mayor Crewe stated the meeting constituted a public hearing (due notice having been given) to consider 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 inquired if there are persons present who wished to address the Town Council during the public hearing on this topic. Mayor Crewe stated that the Town Council has the minutes from the Planning Commission meeting, and they will consider this later on the agenda, so this is not the only opportunity to speak. He advised that this is the opportunity to speak during the public hearing.

Mr. Stanley King, Jr. was recognized and stated he owns the property at the corner of Cove Road and Peppers Ferry Road. He noted that Fastenal is located there now. Mr. King advised that he uses the remainder of the property for the storage of building materials. He indicated that his understanding is if the property was rezoned, he would be unable to do this without placing a roof over it. Mr. King stated he objects to the change, and advised he does not know what else to state. He noted he also uses the property for rental to Sugar Grove Paving to store their equipment while they are in town doing jobs. Mayor Crewe inquired if Mr. King was aware that the Planning Commission made no decision since it was a tie vote, so it comes to the Town

Council with no recommendation. He remarked that one of the things that has been discussed, but noted he would ask Mr. King to react to it, if he would, is that there be a special exception permit issued so that whatever Mr. King is currently doing with the property he could continue to do. Mayor Crewe indicated that his understanding is the recommendation would be, although a motion has not been made but the discussions in the Committee indicate it, that the special exception permit would be owned by the land and not by Mr. King, personally, so the special exception permit would transfer to the new purchaser. Mr. King inquired if it would be transferable. Mayor Crewe stated that is correct, if it was transferable, and if the person could do what Mr. King is doing with the special exception permit. Mayor Crewe inquired if this would solve the problems for Mr. King from his point of view. Mr. King noted that is correct. Mayor Crewe requested Mr. King to keep this in mind as the Council proceeds with the meeting. He thanked Mr. King for attending the meeting.

Mayor Crewe inquired if there are others who wished to address the Council during the public hearing. There being none, he declared the public hearing closed. Mayor Crewe noted that the Council will consider this matter later in the meeting.

RE: CITIZENS' PERIOD

Mayor Crewe stated the next agenda item is Citizens' Period. He noted that Mr. and Mrs. Harman have marked they desired to address the Town Council during Citizens' Period.

Mr. Jeffrey Harman was recognized and stated his wife spoke to the Town Council at the last meeting. He remarked that he wanted to talk to the Town Council again about this issue that is a problem to him. Mr. Harman noted that the Town Council told his wife at the last meeting that they did not feel like it was the Town's responsibility. He indicated he has been reading a little bit on this, and by what he understands, the Town does have a responsibility of how to place homes on lots, how close they can be to their neighbors in order to protect their homes from fire jumping across, and also about being too close and hurting the value of someone's home. Mr. Harman remarked that he wanted to speak to the Council about that again at this meeting. Mayor Crewe stated that so the Council will remember what Mr. Harman is talking about, at the last meeting when Mrs. Harman spoke, basically, Mr. Harman's house faces on Tazewell Street, and his backyard faces on Ridge Street. He noted the house that faces Ridge Street is three or four inches, but less than six inches, from the property line on the backside. Mr. Harman noted it is approximately three inches, and maybe even less. Mayor Crewe advised that this is on the backside of the property. He explained that the Town has looked at this three or four times. Mayor Crewe stated that as far as he knows, and noted he has not seen an explanation of how it got to be this way, but the discussion they had the last time was that, apparently, that small house was a carriage house for the large house at some point, and it was subdivided out. Mr. Harman noted that is correct. Mayor Crewe indicated that where they got the last time, and where he thinks they are at this point, is what Mr. Harman has stated is correct. He remarked that the Town is responsible for where houses are located on the property and that is regulated by the zoning and by building permits. Mayor Crewe pointed out that this particular structure predates any of these regulations, as far as the Town can tell. He stated it would be a nonconforming structure under today's standards, and would not be allowed, but it is not possible for the Town to state it needs to be corrected. Mayor Crewe summarized that he thinks this is where the Council was with this issue at the last meeting. Mr. Harman advised that, also, this property was not originally built there, and it was to be a dwelling, but it was meant to be a carriage house for the old, big house. He noted the code states, "As of the Code of Virginia, 1919, in order to move a building to a new foundation, it would have to be considered new construction and need a permit." Mr. Harman stated this is according to the State Code of Virginia. He advised that he understands the Town of Wytheville may not have had its codes,

but it is a part of the State of Virginia, and it gets its authority through the State of Virginia. Mayor Crewe indicated that the Town Codes match the State Codes, and they have for a number of years, but advised he did not know about 1919. Mr. Harman noted this is what he understands. Mayor Crewe reiterated that the Town Codes have matched the State Codes for years and years. Mr. Harman remarked that this is what the code stated about moving a house, and undoubtedly, it must have meant that there should have been a permit for it at that time. Mayor Crewe stated he cannot answer that question because he does not know when it was done, but there is also a statute of limitations if one is going to contest such a move, there is a time limit within which to contest it, and the Town is confident that passed a long time ago. Mr. Harman noted that what he is stating is it was the Town's responsibility to see that something like this did not happen that would cause people problems in the future. He stated he knows it was not this Town Council at the time, and it was before their time, but it was nonetheless a Town Official at the time, and they were supposed to see that things like this did not happen. Mayor Crewe remarked that he did not know because he does not know what the Town ordinance stated in 1919. He stated he did not even know when the house was built, but he knows it was a long time ago. Mr. Harman indicated that according to old fire maps for the Town, it showed that home there in 1937, but it had not been added on to. He continued that sometime after 1937, it was added on to, and that is a long time after 1919 when it was supposed to be permitted in order to be done. Mayor Crewe stated that assuming everything Mr. Harman is stating is true, there is nothing the Town can do about it. Mr. Harman advised that he would like for the Town Council to vote on it and give him their decision on this matter, and this would allow him to carry on an appeal. Mr. Harman noted if the Town Council does not vote on it, he feels like there is nothing to appeal. Mayor Crewe indicated that Mr. Harman needs to see a lawyer because if the Town votes "yes," "no," "maybe," or anything, that is not an appealable decision, and that is not something Mr. Harman can go to court to do. Mayor Crewe advised that there is no mechanism for that. Mr. Harman indicated that it never became a real problem until he heard a person state they could adversely possess his backyard. He noted at that point, he realized he is starting to have a problem with this. Mr. Harman indicated that later, this person told him he was not allowed to park in his backyard because it is too close to their house because their house is too close to him. He indicated that he has received a letter from an attorney threatening him with a lawsuit if he did not stay away from that house and to keep away from that house and not to park anything close to it, but it is his property. Mr. Harman advised that he feels he has a right to park on his property, and this is hurting the quiet use of his property. Mayor Crewe noted that it is also hurting the quiet use of the lady in the other house. He stated this is exactly the point. Mr. Harman remarked that to the lady in the other house, she can use her property, but she cannot come over on him. Mayor Crewe indicated that this is something Mr. Harman and the other person will, ultimately, have to ask the court to decide. Mr. Harman remarked that when he goes and gets an attorney, then he has to pay a fee to the attorney, and he thinks this is a Town issue the Council should vote on. Mayor Crewe noted he is telling Mr. Harman that it is not a Town issue, and if someone wants to make a motion, they can do it, but there is absolutely no mechanism for the Town of Wytheville to do anything. He indicated that if Mr. Harman wants the Town to state they will tell his neighbor to tear the building down, the Town does not have the ability to do that. Mayor Crewe remarked that if Mr. Harman wants the Town to state she has to move the building, they cannot do that. Mr. Harman remarked that the Town had the ability in 1950 to go all over the town, and any homes that were constructed contrary to pretty much today's code were supposed to have been removed at the owner's expense. He noted that if, at any time, a nonconforming house was allowed to set empty for at least two years, they were to never be able to live in that house again. Mayor Crewe indicated that he and Mr. Harman are reading the statutes differently. He noted that a nonconforming use that ceases for two years cannot be continued after that. Mr. Harman noted that is correct. Mayor Crewe indicated that this does not mean an inhabitable house cannot be inhabited. He reiterated that this is why he stated that Mr. Harman needs to

consult an attorney. Mr. Harman remarked that it is a nonconforming house the way he sees it. Mayor Crewe remarked that he understands this is what Mr. Harman thinks. Mr. Harman indicated that his neighbor never had a permit, and she does not have a certificate of occupancy, it is too close to him, and it is a danger of fire. He stated that it is approximately 10 or maybe 12 feet at the most between her home and his, and the direction of most of the winds that blow normally comes from her house to his, and it is a very dangerous situation for him and his neighbor. Mayor Crewe noted if someone on Council would like to make a motion for the Council to do anything, they could feel free to do so. He stated he just does not know what the Town could do. Mayor Crewe advised Mr. Harman that he needs to talk to an attorney, and Mr. Harman has an issue with the landowner, but not with the Town. He reiterated that there is nothing the Town can do, and there is no mechanism. Mr. Harman inquired regarding an issue with the landowner. Mayor Crewe remarked that is correct and explained that there is a dispute between Mr. Harman and his neighbor, and the Town does not have anything to do with that. Mr. Harman remarked that he feels he does not have a dispute with the neighbor as much as he does with the Town failing to keep the codes and protecting people. Mayor Crewe stated Mr. Harman is entitled to his opinion, and it differs from the Town. He advised he does not know anything the Town can do. Mr. Harman inquired if he has the right to appeal this, if this is the Council's decision, and they are not even going to vote on it, and the Council feels like there is nothing the Town can do. Mayor Crewe explained that Mr. Harman can do anything that he wants to with this, but advised what he is telling Mr. Harman is there is no mechanism for appeal. He indicated that the Council is a political body. Mr. Harman inquired if this is the Council's final word. Mayor Crewe noted that he believes Mr. Harman is going to end up going to court, and whatever the Council does or does not do is irrelevant to going to court because whatever the Council decides is not something Mr. Harman can take to court and contest. Mr. Harman indicated that personally, he really does not understand how the law works exactly, but he kindly feels since Mayor Crewe is his neighbor's attorney that it should bias him in this matter as to saying what the Council will or will not do. Mayor Crewe noted that this is fine, and he knows that Mr. Harman is entitled to his opinion, but there are three other people who can vote, and the Town Attorney is attending the meeting, and if anyone thinks differently, they can say whatever they desire. He stated he is not "running the show." Mayor Crewe advised that there is no mechanism in place. Mr. Harman stated he had a State Senator tell him he did not think that any one of the Council members would like to have this mess in their backyard. Mayor Crewe indicated that Mr. Harman is entitled, again, to his opinion. He stated that Mr. Harman could do whatever he wants to do, but Mayor Crewe reiterated that he does not know of anything the Town can do. Mayor Crewe remarked that what he is stating is if someone has an idea, anyone can make a motion. He reiterated that it is not a Town issue. Mr. Harman noted the Town Council is not even considering the Code in 1950 that stated the Town, as a body, would go around and look for these situations. Town Manager Sutherland noted he asked Mr. Harman this question in the office the other day and he did not answer it. He inquired of Mr. Harman as to what he would like for the Town to do. Mr. Harman answered that he would like for the Town to remove this threat. Town Manager Sutherland inquired of Mr. Harman as to what he told him in the office that day. Mr. Harman answered that he did not recall. Town Manager Sutherland indicated that he told Mr. Harman that there was no way that could happen shy of the court compelling the Town of Wytheville to remove the structure. Councilman Weisiger remarked that whether it was correct or not, it was put there, and it is a nonconforming structure, and there is not anything the Town can do until something happens to it. Town Manager Sutherland noted he did not know of what mechanism the Town has to go and condemn a perfectly livable house. Town Attorney Kaase interjected that it is not possible. Mr. Harman noted that the Town is calling it a house, when it is really a utility building that somebody is living in. Town Manager Sutherland noted he calls anything that someone resides in a house, and noted he guessed this is just a generic phrase for a residential structure. Mr. Harman remarked that he wanted to come to the Town Council, and he wanted to be sure that he talked to the Council and when he

went to an appeals board, they would state that the Town has not voted on it and there was nothing they could do because the Town had not voted on it. Town Attorney Kaase advised Mr. Harman that he really needed to consult an attorney because the things he is stating have no basis in fact. He noted that Mr. Harman should consult with somebody who knows about this. Mr. Harman remarked that he is kindly consulting with the Town because he figures they should know about these things, and they would not advise him wrong. Town Attorney Kaase indicated that Mr. Harman was told about the property the best he can tell. Mr. Harman noted that he supposes this is all he can do. Mayor Crewe reiterated that he does not know of anything the Town can do to help the situation. Mr. Harman remarked that Mayor Crewe was talking about the two year clause that if nobody did anything for two years, they got away with it. Town Manager Sutherland advised that they do not agree with that either. Mayor Crewe indicated that this was not what he just stated. Town Manager Sutherland explained that for a nonconforming use or structure, and noted he will address the nonconforming use, it states that it is not permitted in that zoning district in any event. He noted for example, a case at this meeting would be if things were different on Mr. King's property, he is going to have the right to use the property, and noted that Mr. King is going to have the right to use it forever, but if the permit was not allowed and if he abandoned it for two years, it would not be permitted, but that is because that use is not permitted in that zoning district, and not because he abandoned it. Mr. Harman indicated that according to the code, there is not enough land on that piece of property to build a home, and that home the Town is calling a "home" does not have enough square feet to be considered a home. Mayor Crewe advised that this is Mr. Harman's opinion. Mr. Harman noted that is the law. Mayor Crewe indicated that this is not the law, and advised that he has read the law, and he knows what the Zoning Ordinance states. He stated he went to law school and Mr. Harman did not, with all due respect. Mr. Harman noted that is correct. Mayor Crewe remarked that he knows what the law is, and Mr. Harman does not know the law, and that is why he needs to see a lawyer because he is wrong. Mayor Crewe remarked that what Mr. Harman is stating, as Town Attorney Kaase just politely stated, has no basis in fact, and this is what they are trying to tell him is he needs to see a lawyer. He reiterated that Mr. Harman's fight is not with the Town. Mr. Harman advised that in this particular residential section, it states the home has to be so many square feet. Mayor Crewe noted that is correct, and the Zoning Ordinance states that. Mr. Harman noted it is not, and the home sat empty for two years, plus two years, and indicated that he feels like it should not be allowed to be lived in since there is a danger of fire threat, which each one of the Council members have sworn to protect people from these sort of things. Mr. Harman indicated that he realizes this town does not have such a great fire rating, and he thinks things like this could lead to that. Mayor Crewe remarked that he is going to address this before Mr. Harman is cut off. He noted that Mr. Harman has been to the Town four or five times, and they have been through this numerous times, and the Council has told him five times that Mr. Harman's fight is not with the Town, and the Town cannot fix this. He advised that Mr. Harman slandered the fire department when he stated the Town does not have a good fire rating. Mr. Harman remarked that he is not slandering the Fire Department. Mayor Crewe stated the Town has the highest fire rating available. Mr. Harman advised that he has no intentions of slandering any fire department. Mayor Crewe indicated that he is correcting Mr. Harman when he stated the Town does not have a good fire rating because the Town does have a good fire rating. Mr. Harman noted that the Fire Department does a good job, the town needs them, and it would be in sad shape without them. Mayor Crewe stated he would agree, and the town has a very excellent Fire Department, and it has a good fire rating because of that. He remarked that there, again, Mr. Harman misspoke when he stated the Town does not have a good fire rating. Mr. Harman noted the Town could very well have a good fire rating, and he apologized for this. Mayor Crewe indicated that he would accept Mr. Harman's apology, and remarked that his advice to Mr. Harman would be to see a lawyer who can straighten this out and explain what his options are because the Town Council cannot do anything to help the situation. Mr. Harman noted that he supposed this is all he could do then. Mayor Crewe

remarked that this is his suggestion, and he thanked Mr. Harman for attending the meeting. Mr. Harman inquired if anyone else has any other suggestions. No suggestions were offered by the Town Council. Mr. Harman thanked the Town Council for their time.

Mayor Crewe inquired if there are others who wished to address the Town 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 and the Budget and Finance Committee will meet this week on their regular day and time.
2. The Town received a letter this past week from the Southwest Virginia Enterprise Center located in Galax. The Town has the eligibility for two board members on this board. The Town is currently without one member, and Mr. Charles Crockett has served on the board for several years, and the Town does not have a member for the second position. The Southwest Virginia Enterprise Center has asked that the Council appointment someone, and the Council needs to find someone who will serve on this board. If the Council is unable to find someone, Town Manager Sutherland advised that he would be willing to serve as the Town's appointment on that board, if the Council should desire. Mayor Crewe remarked that the newspaper or radio representatives neither are present. He advised it is the pleasure of the Council, and if they wanted to make the appointment at this meeting they could, or they could wait until another meeting to see if someone else desires to serve on this board. Councilman Weisiger noted that the Council could defer the appointment to another meeting. It was the consensus of the Town Council to defer the appointment to another meeting for consideration.

RE: BUDGET AND FINANCE COMMITTEE REPORT

Vice-Mayor King, reporting for the Budget and Finance Committee, reported that over the past several months, the Committee has reviewed certain increases in fees and permits that have been recommended by the Town's staff. She noted that the fee increases that have been proposed are generally in two broad categories. Vice-Mayor King advised that first, there are a number of fees for permits, etc. that are related to building inspections and zoning and/or subdivision reviews. She remarked that the second broad category is increases in certain fees associated with the cemeteries. Vice-Mayor King indicated that the Committee has attached for the Council's review a schedule that outlines the fees that are proposed to become effective. She indicated that in all these categories, the increase in fees merely reflects an effort to cover the expenses the Town incurs in performing these services. Vice-Mayor King noted that, for example, the increase in fees in openings and closings of cemetery spaces reflect that some funerals occur after regular business hours, which requires the Town's staff to be on overtime pay to perform these duties. She advised that increases in fees associated with crypts in the mausoleum reflect an increase in the materials used to encapsulate a burial vessel in the mausoleum. Vice-Mayor King remarked that the increase in building permit and zoning fees merely reflects the personnel expenses involved with these activities. She stated, for example, a subdivision or zoning review process may involve a number of the Town's staff over a period of a couple of months. She advised that the fees that have been charged previously do not come close to covering the expenses incurred by the Town. Vice-Mayor King noted that having stated this, it would be the recommendation of the Budget and Finance Committee that the attached fee schedules be approved and that they become effective immediately. Mayor Crewe stated he

will take that as a motion from the Budget and Finance Committee that already has a second that the fee schedules be approved and effective immediately. He 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, William B. Weisiger, H. Judson Lambert. Against: None.

Vice-Mayor King also reported that last week, the Committee received a request from the Wythe-Grayson Regional Library for additional funding. She remarked that the Council had previously appropriated \$1,730 for the library, but have been requested to make the total appropriation \$3,500. Vice-Mayor King indicated that, unfortunately, the Council had misunderstood what the total appropriation request was and, therefore, had only funded it at about one half of the level requested. She stated it would be the recommendation of the Budget and Finance Committee that the total appropriation for the Wythe-Grayson Regional Library Board for fiscal year 2007-08 be established at \$3,500. Mayor Crewe indicated that the motion from the Committee is to make the total appropriation of \$3,500, including the portion that has already been paid. Vice-Mayor King advised that is correct. He noted this is a motion that has a second from the Committee. Mayor Crewe inquired if there is any discussion on the motion to increase the total appropriation to a total of \$3,500. 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, 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, reported that the Committee has received a request from the Saint Mary's Catholic Church seeking the closing of Fifth Street between Main and Monroe Streets on Saturday, October 6, between the hours of 6:30 a.m. and 4:30 p.m. He stated that each year, the Catholic Church has a Fall Festival, and it has been the Council's practice in past years to accommodate the request to close the street for the church. Councilman Weisiger advised that the Committee has contacted the Police Department, and the Committee does not anticipate any problems with the closing of Fifth Street for this period of time. He noted, therefore, it is the recommendation of the Public Works Committee that the Council honors the request of Saint Mary's Catholic Church to close Fifth Street between Main and Monroe Streets on Saturday, October 6, between the hours of 6:30 a.m. and 4:30 p.m. A motion was made by Councilman Weisiger and seconded by Councilman Lambert to approve the request of Saint Mary's Catholic Church to close Fifth Street between Main and Monroe Streets on Saturday, October 6, between the hours of 6:30 a.m. and 4:30 p.m. 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, William B. Weisiger, H. Judson Lambert. Against: None.

Councilman Weisiger also reported that the Town has received information from the Virginia Department of Transportation concerning the Six-Year Improvement Program. He stated that according to Mr. Mark White, the State Urban Engineer, funding for the Connector Road, now named Community Boulevard, should be complete by the end of 2008. Councilman Weisiger explained that this would mean the project should be bid in 2009, with construction being completed during 2010. He remarked that this section of roadway is approximately 1.3 miles long and will cost about \$6,091,000 to complete. Councilman Weisiger noted that this project has been in the Six-Year Improvement Program well in excess of six years, and the Town is pleased it is now approaching being fully funded. He remarked that the Virginia Department of Transportation also noted that the Town is in a position to identify a new project that will be in the Six-Year Improvement Program. Councilman Weisiger advised that through the years, the

Council has identified many sections of roadway that they would have liked to be included in the Six-Year Program, though none of these have been approved. He noted that the Department of Transportation requested that the Town submit a new project prior to December 1, 2007. Councilman Weisiger advised that over the next few weeks, the Committee will review all of the identified roadway projects and will make a recommendation to the Council. He explained that once the Council agrees on this new project, it will be necessary to adopt certain resolutions and to conduct a public hearing. Councilman Weisiger stated there is no action required on the Council's part at this time, but the Committee did want to alert everyone that the Council will need to identify a new project. Mayor Crewe advised that this will be a topic the Council will discuss in the Committee meetings, and they will take action later. A copy of the Public Works Committee report is attached and made part of these minutes. ([Attachment](#)).

RE: APPOINTMENT – HOMESTEAD MUSEUM ADVISORY BOARD

Mayor Crewe noted the next agenda item is to consider an appointment of a member to the Homestead Museum Advisory Board to fill the vacancy created by the resignation of Mrs. Jennifer Morin whose term expires May 29, 2011. He noted the appointment would be for the remainder of Ms. Morin's term, whose term expires May 29, 2011. Mayor Crewe advised that the Council saw in the Council package one recommendation. A motion was made by Vice-Mayor King and seconded by Councilman Weisiger to appoint Ms. Martha Cheek to the Homestead Museum 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, William B. Weisiger, H. Judson Lambert. Against: None.

RE: APPOINTMENT - BOARD OF ZONING APPEALS

Mayor Crewe stated the next agenda item is notification of an appointment of a member to the Board of Zoning Appeals to fill the expiring term of Mr. Robert C. Atwell, Jr., whose term expires September 10, 2007. He noted that Mr. Atwell is not eligible for reappointment, and the Council will have to appoint someone probably at the next meeting or, certainly, the meeting after that before the September 10 deadline. Mayor Crewe indicated that if there is anyone interested to please submit an application, unless someone wants to make a motion at this meeting. There being no motions, Mayor Crewe noted he would assume that the Council will wait to make this appointment.

RE: APPOINTMENT – SMYTH-WYTHE AIRPORT COMMISSION

Mayor Crewe stated the next agenda item is the appointment to the Smyth-Wythe Airport Commission to fill the unexpired term of Mr. Fred Cox whose term expires June 30, 2008. He noted that Mr. Cox passed away. He remarked that as the Council will recall, they have been in discussions with the County, and the County has indicated that the Town should proceed with making the appointment. A motion was made by Vice-Mayor King and seconded by Councilman Lambert to appoint Mr. John Benham to the Smyth-Wythe Airport Commission since he is a resident of the Town of Wytheville. 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, William B. Weisiger, H. Judson Lambert. Against: None.

RE: ORDINANCE NO. 1220 – PEPPERS FERRY ROAD REZONING

Mayor Crewe presented Ordinance No. 1220, an ordinance amending Ordinance No. 640, generally known as the Zoning Ordinance, to rezone 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 remarked that this is the property that Mr. Stanley King, Jr., spoke about earlier. Mayor Crewe noted that the Council has the information in their packet, and they will also see the recommendation from Councilman Jones in their packet that wanted, if he is understanding his recommendation or his opinion, to grant the rezoning, but make a variance that runs with the land. He indicated that he thinks Councilman Jones only addressed the property of Mr. King and Mr. Jim Grubbs, if he understood the memo correctly, because of Alco and the truck stop not having contacted the Town. Town Manager Sutherland noted he would like to overview Councilman Jones' notes. He remarked that Councilman Jones' proposal would suggest that the truck stop property not be rezoned, and if the Council chose to consider a special exception permit for Mr. King and Mr. Grubbs, then this would need to go back to the Planning Commission for a separate action to have the special exception permits issued. Mayor Crewe noted his question is if that is what is going to be done, how is the Council going to do it piecemeal. He inquired if the Council would table any action. Town Manager Sutherland remarked that he thinks the third option could be that the truck stop, Mr. Grubbs' property, and Mr. King's property could just not be part of the rezoning. Mayor Crewe noted he was thinking and noted it would seem to him, and he requested the Council to help him with this, but if the Council is going to do this procedurally correctly, the Council would not rezone the property and then go back for a special exception permit, because the special exception permit is not granted except with the rezoning. He advised it seems to him that maybe the thing to do would be, if that is what Council wants to do, is indicate that this is what the Council is considering, but table it until it goes back to the Planning Commission on a public hearing on the special exception permits, and for the Council to consider it all together so the rezoning and the special exception permits come before the Council at the same time. Mayor Crewe inquired if this is procedurally a cleaner way of doing this. Vice-Mayor King inquired if the Council has to agree to this. Mayor Crewe indicated that the Council can do anything they want. Vice-Mayor King noted she is inquiring about it going back to the Planning Commission. Mayor Crewe stated that is correct if the Council is going to talk about special exception permits, and the Planning Commission has not held a public hearing on the special exception permits, and this would need to go back to the Planning Commission. He remarked that it is the special exception permits that the Council cannot conclude at this meeting. Councilman Weisiger remarked that he feels this might be the way to go. Town Manager Sutherland inquired if they are referring to tabling the ordinance. Mayor Crewe noted that so the Planning Commission has some kind of an idea, he inquired if Councilman Jones' suggestion is basically agreeable that it be rezoned except there be a special exception permit for Mr. King's and Mr. Grubbs' properties that runs with the property that states they can continue to use it for whatever they are using it for even if they were selling it to a new purchaser. The Council members noted that this is agreeable. Mayor Crewe advised that this is the gist of Councilman Jones' suggestion. He noted it would have to be done by a special exception permit. Councilman Weisiger indicated that is correct, and then to take the truck stop property out of the rezoning. Mayor Crewe stated if the Council does that, it is the other part to this, and inquired of Assistant Town Manager Moore if he is reading it correctly, and noted that Mr. Moore is the one who works with the Planning Commission. Assistant Town Manager Moore indicated that he also had a thought that the Council could rezone it to B-1 Business with Conditions. Town Manager Sutherland remarked that the Council could do that at this meeting. Assistant Town Manager Moore remarked that it could simplify the process. Mayor Crewe

inquired of the Council as to what they would like to do, and indicated that it is the Council's choice. Councilman Weisiger inquired if the Council wanted to take action on it at this meeting. Town Manager Sutherland noted that if the Council wanted to make a decision at this meeting, the B-1 Business with Conditions zoning would work. Assistant Town Manager Moore remarked that the B-1 Business with Conditions could include the uses that Mr. King and Mr. Grubbs would like to continue. Mayor Crewe noted that these uses would run with the land so the zoning would be in effect. He inquired of Mr. King if this would be acceptable as long as he can continue to do what he is doing and he can sell it to somebody else and do what he is doing now. Mayor Crewe inquired of Mr. King if that is his main concern and if the Council addressed this in those fashions if it would be acceptable to him. Mr. King advised that this would be acceptable to him. Vice-Mayor King inquired if this would have to go back to the Planning Commission. Mayor Crewe answered that it would not be necessary to go back to the Planning Commission if the special exception permits are not issued. He noted this would be a rezoning with stipulations or conditions. Town Manager Sutherland inquired if the conditions would go only with these properties, or if it would go with all the properties in the zoning district. Mayor Crewe advised that the conditions would go with all the properties. Assistant Town Manager Moore noted the Council is inquiring if the conditions would encompass the entire area. He advised that he did not know this, but he would assume that the Council would separate those two properties and rezone them to B-1 Business with Conditions and rezone the remainder to B-1 Business and then leave the truck stop zoned M-1 Industrial. He stated he does not have a legal section to review, but he thinks this is a solution. Councilman Lambert inquired if this would create a form of spot zoning. Assistant Town Manager Moore noted it would be a form of B-1 zoning within the B-1 Business zoning. Mayor Crewe remarked that there are three parts to what he thinks he hears the Council talking about. He advised that the truck stop would not be rezoned at all, and it would remain zoned M-1 Industrial. Mayor Crewe explained that the property owned by Mr. King and Mr. Grubbs would be rezoned B-1 Business with Conditions so they could continue with what they are doing now and wish to do as specified, and noted that it is in the minutes of the Planning Commission. He stated that Mr. King's issue is basically the storing of the paving equipment. Mr. King noted that it is the storage of the building supplies. He inquired if the Council would like to exclude his property from the rezoning. Mayor Crewe stated the Council could exclude Mr. King's property if that is what the Council desired to do. Vice-Mayor King inquired as to why the Council could not exclude Mr. King's property. Mayor Crewe remarked that if the Council is going to exclude Mr. King's property, if the exception is "eating up" the rule. Vice-Mayor King inquired as to the current zoning of Mr. King's property. Mayor Crewe noted that Mr. King's property is zoned M-1 Industrial, and if it is rezoned to B-1 Business, it could not have paving equipment stored on site unless it was under cover, and this is the issue. He stated in order to have paving equipment located under cover in a B-1 Business zone, there would either need to be a special exception permit, which needs the Planning Commission to conduct a public hearing, or it could be rezoned with the stipulation that the storage of paving equipment is an allowed use. Mayor Crewe indicated that it would be the same kind of an idea for Mr. Grubbs' expansion of the storage units. Mr. King pointed out that he would prefer for his property to remain zoned M-1 Industrial. Vice-Mayor King inquired if Mr. King is referring to leaving his property zoned M-1 Industrial. Mr. King advised that is correct. Councilman Weisiger noted he would prefer to go with the B-1 Business with Conditions. Mayor Crewe noted there are two pieces of this that he understands from the discussions that are rather easy. He stated one part is to leave the truck stop alone and make no change on its zoning. Mayor Crewe indicated that this sounds like a rather easy thing to do. He advised that everything, except Mr. King's and Mr. Grubbs' properties, would be rezoned to B-1 Business with no stipulations and no special conditions, and that is rather easy. Mayor Crewe remarked that the difficult part is Mr. King's and Mr. Grubbs' properties as to whether they receive a special exception permit or a condition in their B-1 zoning or stay M-1 Industrial. He stated that the middle part of this is that it is the King's and Grubbs' properties that are problematic.

Councilman Weisiger remarked that his worry is if the properties stay zoned M-1 Industrial, if the Council is doing spot zoning. Mayor Crewe stated he did not think it would be considered spot zoning and advised that he will defer to the Town Attorney. He explained that what the Council is doing is rezoning around these properties, and the spot would be something that was pre-existing, and the Council did not create a spot zoning. Town Attorney Kaase stated he has to tell the Council that if this is a serious consideration, the Council will have to permit him to spend a minute reviewing it. He advised it does sound like the Council is not really creating anything new, and, therefore, it would not be a spot zone within something else. Mayor Crewe remarked that it would be something else encompassing the spot. Town Attorney Kaase advised that is correct. Mayor Crewe inquired as to the thoughts of the Council. Town Attorney Kaase inquired if the request comes from the Planning Commission. Mayor Crewe noted that the request comes from the Planning Commission at the request of the Town staff, at the request of Council, at the request of speakers at the Town Council and Planning Commission meetings. He inquired if this is a fair statement. Mayor Crewe remarked that this comes from reviewing the entranceways into town, and this is where this is coming from. Assistant Town Manager Moore remarked that the initial proposal came as the result of Town staff's review of the corridor. He stated the Planning Commission did not make a recommendation to the Town Council. Mayor Crewe indicated that the Planning Commission had a tie vote. Assistant Town Manager Moore reiterated that there is no recommendation from the Planning Commission. Mayor Crewe advised that a tie vote is no recommendation. Vice-Mayor King remarked that she guesses what they are talking about now is what Councilman Jones wrote. Mayor Crewe asked the Council to remember that this is an amendment to an ordinance that would ordinarily go through three readings. He advised that whatever the Council wants to do, theoretically, they will have to do this two more times. Councilman Lambert inquired if time is of the essence in this situation. Councilman Weisiger remarked that there are three readings of the ordinance, so the Council can do one reading at this meeting, and change the ordinance the next time, if the Council desires. Vice-Mayor King noted that is correct. Mayor Crewe stated the only reason that time would be of the essence is if some piece of that property develops between now and the final passage of the ordinance, and whatever is finally passed. Mayor Crewe inquired as to the pleasure of the Council. Vice-Mayor King remarked that since the ordinance is going to go through three readings, the Council could go ahead and do the three parcels as M-1 Industrial. Councilman Weisiger noted that could be done, and they could rezone the rest of the M-1 Industrial properties to B-1 Business. Vice-Mayor King stated that is correct. Councilman Weisiger remarked that he is agreeable with that at this meeting. Vice-Mayor King advised that this would also include leaving the truck stop out of the rezoning. Mayor Crewe remarked that it would leave the truck stop, Mr. Grubbs' property, and Mr. King's property as M-1 Industrial, and not rezone them at all, but rezone the remaining M-1 Industrial properties along Peppers Ferry Road to B-1 Business. Councilman Weisiger noted that is correct. Councilman Lambert noted this would be for the first reading. Mayor Crewe inquired if this makes sense that the ordinance would be amended that everything on this list except the truck stop, Mr. Grubbs' property, and Mr. King's property would be zoned B-1 Business for a first reading. He noted that their properties would not be rezoned, and those three tracts would remain zoned M-1 Industrial. Mayor Crewe inquired if he understood this correctly. Vice-Mayor King stated that is correct. A motion was made by Vice-Mayor King and seconded by Councilman Weisiger to approve on first, but not final reading, Ordinance No. 1220, an ordinance amending and reenacting Ordinance No. 640, generally known as the Zoning Ordinance to rezone 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, with the exception of the property owned by Travel Centers of America, Stanley King, Jr., and JRJ Properties, LLC. Mayor Crewe advised that the motion is for an amendment to the Zoning

Ordinance to change the property on the diagram owned by anyone other than the truck stop, Mr. Stanley King, Jr., and Mr. Jim Grubbs to B-1 Business zoning, and everything else is not being rezoned at all. He 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, William B. Weisiger, H. Judson Lambert

AGAINST: None

ABSTENTIONS: None

Ordinance No. 1220 was approved on first, but not final, reading. Mayor Crewe advised Mr. King that the way the ordinance was approved at this meeting, Mr. King's and Mr. Grubbs' property was not changed, and it will remain zoned M-1 Industrial. He advised Mr. King that this ordinance will be considered again.

RE: PLANNING COMMISSION RECOMMENDATION – GRAHAM SPECIAL EXCEPTION PERMIT

Mayor Crewe stated the next agenda item is to consider the recommendation of the Planning Commission regarding the request of Mr. Michael B. Graham for a special exception permit to operate a commercial, service, or specialty retail office building at 495 North Fourth Street which is located on the west side of North Fourth Street between Pine and Spiller Streets in an R-2 Residential District (southwest corner of Fourth and Pine Streets). He noted the recommendation is that the special exception permit be granted with six stipulations. Mayor Crewe remarked that the Council will need to have a public hearing before they can act on this, and he believes the Council can hold the public hearing on September 10, with the proper advertising. Mayor Crewe inquired if anyone has any objections to setting a public hearing to consider this request at the September 10 meeting. It was the consensus of the Town Council to set a public hearing for the September 10, 2007, Council meeting to consider the request of Mr. Michael B. Graham for a special exception permit to operate a commercial, service, or specialty retail office building at 495 North Fourth Street which is located on the west side of North Fourth Street between Pine and Spiller Streets in an R-2 Residential District (southwest corner of Fourth and Pine Streets).

RE: TRENTON CROCKETT

Mayor Crewe advised he did note that once again one of the Town employees, Mr. Trenton Crockett, did exceptionally well in the Commonwealth Games. He noted that the Council would congratulate him in that effort. Vice-Mayor King remarked that Mr. Crockett's name needs to be placed on the Sports Hall of Fame Monument. Mayor Crewe indicated that he thinks this is being discussed. Vice-Mayor King reiterated that she thinks Mr. Crockett's name should be placed on the Sports Hall of Fame Monument.

RE: ALCO PROPERTY

Councilman Lambert stated he would like to discuss the Alco property, if the Council did not mind. He distributed information to the Council members for their review. Mayor Crewe indicated that the last time the Council talked to Alco, the sales prices they were given, and this was years ago, was somewhere in the neighborhood of \$5 million, and there was the question about environmental concerns that would need to be cleaned up. He stated that although he

has not seen it, he has been assured that the environmental concerns are gone, so this is no longer an issue. Mayor Crewe indicated that the issue Councilman Lambert is suggesting is that the Council attempt to purchase the building with Largen & Associates basically stepping out of the way. Councilman Lambert advised that is correct. He noted he has discussed this with Vice-Mayor King, and noted he has also discussed this with Mayor Crewe and Councilman Weisiger. He indicated that the main point of purchasing the building is if the Town does buy the property that they mothball the building for one year, and that means the Town will not heat or cool the building. Councilman Lambert noted that the Council would just let it stay in place and not spend any money on it until they have time to sit down and do some more planning for the community and determine what the Town is likely to need in the future and how this property might fit in. He remarked that at the end of one year, the Council can evaluate where they are and determine if they would like to raze the building, sell it all, retain part of it, or just exactly what the Council wants to do. Councilman Lambert explained that his concern today is the same as it was yesterday, last week, and at the last meeting the Council held. He stated he did not think this property will be available long, and noted he thinks the Council can acquire this without imposing a burden on the citizens. Councilman Lambert remarked that he thinks the value here is tremendous, and if the worse things happen, the Council can sell enough of the property to recoup any payment they might make on it. Town Attorney Kaase inquired if this property is under contract with John Largen. Councilman Lambert stated that is correct. He remarked that their contract has a provision, and it is to John Largen & Associates and assignees, so they can assign the right to purchase, and noted this is his understanding, at \$1.5 million. Town Attorney Kaase inquired as to when this contract expires. Councilman Lambert noted that it is in a 60-day period now. Vice-Mayor King inquired if this contract started the last time Mr. Largen was at Council. She advised that at that meeting, Mr. Largen commented that the contract started the next day. She inquired if that was at the Council meeting or the last Committee meeting. Mayor Crewe noted that he did not recall, but advised that it is not far into the 60-day period, but it is into the 60 days. Councilman Lambert noted that Mr. Largen had to put up \$50,000 to keep this in place. Vice-Mayor King inquired as to why the Town owes Mr. Largen the \$75,000. She noted that the Town never asked for anything. Councilman Lambert advised that Mr. Largen has presented it, and it is something the Town has that they can act on. He explained that if Mr. Largen bails out on this right now, there may be another offer on the table to be picked up by someone else, and the Town loses all possibility of ever acquiring that property, unless the Council wants to pay a lot more for it. Mayor Crewe remarked that after discussing it a month ago whenever the Council stated they were not interested, after that, and after he and Councilman Lambert had talked, and he had talked to the Council members about it, and the Committees had discussed it, he agreed to call and see if Alco would give the property to the Town. Mayor Crewe explained that all indications are that Alco is not going to give the property to the Town, although he can still ask that. Mayor Crewe noted that if the property was attained, the Town would have to decide what to do with it. He stated the only upkeep to the property would be to mow it and the liability insurance. Councilman Lambert remarked that the maintenance would be nominal. He stated he truly does not see the Town ever having the opportunity to buy a piece of property in Wytheville that would be so valuable to them. Vice-Mayor King remarked that this property has been sitting out there empty probably for about 10 years. Councilman Lambert noted he would bet that it would not sit out there empty for another 10 years. Vice-Mayor King pointed out that if the property is so valuable why some big realtor has not sold it already, and noted this is what she does not understand. Councilman Lambert indicated that one reason is there was the clouded issue of environmental concerns. He stated that secondly, there was no development out there. Councilman Lambert advised that the Town opened the Community Center and two motels were built in the area, and pointed out that there is quite a bit of development happening on the other side of road, on the other side of the underpass. He commented that the whole complexion of that area in there is changing, and noted he is sure there is going to be some astute business people looking at property and

wanting to purchase it. Vice-Mayor King stated she would think that someone would have already wanted to purchase the property. Councilman Weisiger noted that there is no way for the Council to know if the Foundation from Alco is going to contribute anything or not until after the Town purchases the property. Mayor Crewe indicated that if he is understanding correctly, the Town is asking for this upfront. Councilman Lambert noted it would be simultaneously with the purchase. He advised that he thinks the Council should explore that possibility before the Town makes an offer to see if they would entertain a request for a contribution. Mayor Crewe noted that the other side of this that the Council kind of talked around several times is that by making the contribution from Emerson Electric, he would guess, to their Foundation, they got the tax advantage in that transaction, so there are no tax advantages left to them on the next end of the sell, whether they sell it to someone or give it someone, etc. He stated that also because of the value placed on that gift at the time it went to the Foundation, he thinks their leeway in a lower price is somewhat lowered. Mayor Crewe inquired if this is a fair statement. Councilman Lambert indicated that this is his understanding. He noted that in other words, they cannot give it away for nothing if they valued the property at \$1.5 million because then the IRS is going to state it was not a \$1.5 million gift to the Foundation. Vice-Mayor King inquired if anyone can remember anything about when the Council talked to them before, and noted she cannot remember the attorney's name that was with Alco. Town Manager Sutherland noted that it was Mr. Rusty Lamboley, who was the Vice-President of the company. Mayor Crewe remarked that he was not a lawyer, but that is who the town was dealing with. Vice-Mayor King noted that the Town asked Alco at that time. Mayor Crewe indicated that this is why the Town got in with the college because the college had a Foundation, and they could give Alco the tax advantage. Vice-Mayor King noted that this has been four or five years ago. Mayor Crewe noted that is correct. He noted that Wythe County was also another issue with that because the Town was considering the Town, County, and the College going together. Mayor Crewe remarked that what the Council needs to think about is if Alco offered to sell the property to the Town for \$1.5 million and the Town agrees or disagrees, the underlying part is that the environmental issues have got to be gone, and the Council is not going to consider even paying \$1 for the property if they inherit \$2 million worth of environmental problems. Vice-Mayor King noted she wants to see on paper that the environmental issues have been resolved. Mayor Crewe stated this is kind of a given factor no matter what the Town decides. Mayor Crewe noted that over and beyond the environmental issues, he inquired if the Council would like for him to call and ask Alco if they would be willing to sell the property to the Town for a certain amount of money. Vice-Mayor King noted that this concerns her. Councilman Lambert remarked that Vice-Mayor King takes a bigger chance when she gets in her car and drives down to the Community Center. Vice-Mayor King inquired of Councilman Lambert if he ever owned his own business. Councilman Lambert stated he has owned his own business. Vice-Mayor King inquired if he worked hard. Councilman Lambert noted that he did work hard. Mayor Crewe noted that if the Council looks at this a different way, and they ask Alco if they would sell the property to them for a certain price with no contribution back, then the Council has to vote whether or not they are going to accept it. He advised that what he thinks Councilman Lambert is stating is to call and ask Alco if they will give the Council an answer on this. Mayor Crewe pointed out that right now, the Council is not asking them anything, and it is a dead issue. He stated if the Council wants, and noted he will do whatever the Council would like for him to do, he will call and find out if they will sell the property to the Town at a certain price or if they will give it to the Town. Councilman Lambert indicated that he does not think there is any question that Largen & Associates can assign their right to purchase the property to someone for \$1.5 million, if he understands everything that is involved. Vice-Mayor King remarked that if the Council does not do anything, the Town is not going to owe Mr. John Largen anything and inquired if that is correct. Mayor Crewe noted that is correct. Councilman Lambert noted that is correct if the Town does not do anything. He stated this recognizes the fact that Mr. Largen has kept this in play and he has put a lot of effort and time in it. Vice-Mayor King indicated that she realizes this.

Councilman Lambert remarked that he would expect a connection with this if the Town gets all of Mr. Largen's drawings to date and anything that he has done and all the information he has concerning the building. Mayor Crewe inquired if the Council wants to try and find out whether or not the Town could acquire the property for a certain price, and this would include the building, land, parking lot, etc. Vice-Mayor King inquired as to how the Town is going to pay for the property. Mayor Crewe noted that this is not asking that, but it is asking if the Council wants him to ask that question. Vice-Mayor King inquired as to what the Council is going to do if Alco notes they will sell the property to the Town for an agreeable price. Mayor Crewe indicated that the Council will have to figure out whether they are going to purchase it or not, and where the money is going to come from. He stated that the obvious answer is the Council would take it out of reserves some place or finance it with a bond issue or some other alternatives. Mayor Crewe remarked that at this point, the last number the Town had was Mr. Largen's proposal, which was \$6 million to build and remodel that 42,000 square feet or whatever the size was. Councilman Lambert noted he thinks if the Town acquires the property, the Town can see whether the price can be negotiated on, and what funds might be available on the State level for historic preservation, etc., and if there are any types of these funds available. Town Attorney Kaase inquired as to what has been done to resolve the environmental issues. Mayor Crewe answered that the Town has been told that Alco has done clean up remediation, and he has been told that the Alco building is about to get a clean bill of health. Vice-Mayor King pointed out that about to get a clean bill of health and has received a clean bill of health are two different things. Mayor Crewe noted that is correct, and this is what he is stating. He noted he is stating the remediation of the environmental problems is a prerequisite to anything. Mayor Crewe remarked that there has to be a clean bill of health on the building. Mayor Crewe inquired if it is called a closure letter when DEQ sends a letter stating that everything has been done that needs to be done, and there are no more problems. Vice-Mayor King stated that an environmental problem is the reason the Town has not paid for the jail property, and inquired if it has been three years with this property. Mayor Crewe reiterated that the underlying part of the discussion is that the environmental cleanup has to be completed, no matter what. He stated if Alco cannot get the clean bill of health letter for the building, then the Town does not need to have any discussion with them. He stated that if Alco can obtain a clean bill of health letter on the building, then the question is if the Council wants to ask Alco if they will sell the building to the Town for an agreeable price, and if they would make any kind of a contribution. Town Manager Sutherland noted that the Council may not need to ask them about a price since Mr. Largen can definitely purchase the building for \$1.5 million. Mayor Crewe noted that the question is if Alco will sell the building to the Town for a lesser price. Councilman Weisiger noted that the real question is if Alco will make a contribution to the Town. Mayor Crewe inquired as to how logistically Alco will make a contribution or give it to the Town. Councilman Lambert answered that he thinks the Foundation could give the property to the Town. Mayor Crewe inquired as to why the Foundation would want to give it to a governmental agency for which they will receive no tax benefit. Councilman Lambert advised that with the Foundation being a nonprofit, charitable organization, they are required to give away a certain amount of dollars with a charitable purpose. He explained that the Foundation cannot hoard money and land forever. Mayor Crewe noted this is what he is asking, and inquired as to how the Foundation giving this to the Town would be a charitable purpose. Councilman Lambert advised that he thinks the Town, under the Internal Revenue Service guidelines, is a charitable, governmental purpose. He noted they recognize that the Town is serving the public. Mayor Crewe advised that he did not know, and he will take Councilman Lambert's word for this. He remarked that he knows when the Town has tried to get tax advantages before, the Town has not qualified, and this is why he thinks Alco set up their own Foundation and gave it to their own Foundation because the Town did not qualify for the tax purposes, and they wanted to give it to a 501(c)(3) recipient so they could receive the tax advantages. Mayor Crewe noted that he thinks governmental and charitable are different. Councilman Lambert remarked that this would be a question to ask. He inquired if Alco

could not give it to the Town, if they could channel it back through the College in some fashion. Mayor Crewe remarked that the Town would then have to figure out if the College would be interested in it. He advised that he would expect they would be. Councilman Weisiger inquired if the Town purchases this and decides not to do anything with it, if the Council could get the money back. Mayor Crewe noted it depends on if a realtor can produce a ready, willing buyer with the cash in hand. Vice-Mayor King reiterated that for the Council to see how long the property has been sitting there empty. She noted she knows Councilman Lambert does not want to hear that from her. Councilman Lambert advised that he just feels like what has happened out there in the past is not an indication of what is going to happen in the future, and the Council should not base its action on this. Vice-Mayor King stated that actually all the land that is left is right there. Councilman Lambert noted that this is a good point. Councilman Weisiger noted that is true. Mayor Crewe advised that for the Council to remember that they talked about three parts, with one being the parking lot, the green area/baseball field area or expanding the housing issue, and the building. He stated there are three different kinds of uses that are already there, basically. Vice-Mayor King inquired if the Council is going to have enough money to pay for the Regional Water Authority and the Wastewater Treatment Plant and the \$267,000 that the Town needs down there. Mayor Crewe answered that money is very tight. Vice-Mayor King noted that as Councilman Jones has stated, the Council raised taxes this year. She stated she feels like the citizens are going to be very upset if the Council raises taxes for these reasons, and then the Council goes out and purchases a piece of property. Vice-Mayor King summarized that she did not know about this matter. Councilman Lambert advised that he can understand Vice-Mayor King's concerns. Vice-Mayor King indicated that she knows what Councilman Lambert is stating, too, but the Council has got to have money, and the Council cannot keep draining the citizens of the Town of Wytheville for the Council's own personal satisfaction. Councilman Lambert stated that is correct, but the Council has collected from the people of the Town of Wytheville a considerable sum of money over the years, and that is available now for the purposes of the town. He advised that he does not have any hesitancy to go out and try to justify to the people that the Council would take money and purchase this property. Councilman Lambert remarked that another thing is he has no hesitancy in stating he would bet if the Council got an appraiser to appraise the Alco property, he/she would appraise the land at \$75,000+ per acre. Vice-Mayor King remarked that she guessed everyone would see on the tax tickets. Councilman Lambert noted that this was another matter, and noted it would be indicative of what it might be, but not a certainty. He indicated that this is a fraction of what it is, and it does not recognize the fact that this area is changing very rapidly. Councilman Lambert commented that the needs as a town are going to change very rapidly. Mayor Crewe indicated that he thinks everyone has stated everything that the Council has talked about, and both sides of the issue are raised, but the proposal is that he be authorized to make a telephone call and set this up and do it properly that the Town will contact whoever it is, Alco or the Foundation, to find out if they want to sell the property to the Town of Wytheville for a certain amount of money. Vice-Mayor King noted that she is not stating this, but the other Council members have stated this, so that is fine. Mayor Crewe advised that he is not stating who has said what, but this is what he is asking. He noted that Councilman Jones has advised that he is against the purchase. Vice-Mayor King indicated that she feels the same way. She noted she does not want the Town to get so far into debt. Vice-Mayor King pointed out that the Council is trying to get some of these loans paid off now. Mayor Crewe stated he will try to help Vice-Mayor King with this, and noted that, again, he is trying to get the Council off dead center. He indicated that if the Council does what Councilman Lambert is asking, it takes another vote of Council to state yea or nay. Mayor Crewe remarked that all the Council would be doing is getting Alco or the Foundation to answer the question if they would sell the property or not. Vice-Mayor King advised that she understands this. Mayor Crewe pointed out that if Alco states they will not sell the property, it is a dead issue, and nothing further needs to be done. He remarked that if Alco or the Foundation states they will sell the property at a certain amount, no

matter what it is, he will report this to the Council, and the Council will decide yea or nay at that point. Mayor Crewe explained that to him, this is a two step process which includes calling to find out what their proposal would be, if any, and noted that they know Mr. Largen's contract is for \$1.5 million. Councilman Lambert noted that originally it was \$1.8 million, and Mr. Largen negotiated to \$1.5 million. Mayor Crewe indicated that if they state they will sell the property for a specific price, then the Council can consider that the \$1.5 million price is out there. He noted at the time that Alco notes the price, the Council could decide if they want it or not. Mayor Crewe inquired if he is understanding what the Council is asking correctly. Councilman Lambert noted he would like to find out what Alco or the Foundation states. He noted that since Mr. Largen has signed the contract, there is no question that Alco would have to sell the property to Mr. Largen for the amount quoted to him. Councilman Lambert noted the other question is if the Council wants to go in and try to undercut Mr. Largen to see if the Town can obtain it at a lower price. Mayor Crewe noted that the Council could break it down that way. He inquired if anyone wants to offer the same price as Mr. Largen for the property because that amount is currently on the table by Mr. Largen at this point. Mayor Crewe advised that he has not seen Mr. Largen's contract, but he is assuming that is correct. He noted that number is out there. Mayor Crewe indicated that he thinks that answer is nay. Councilman Weisiger noted that is correct. Mayor Crewe noted that the Council does not want the property for \$1.5 million, and it will have to be a lesser amount. Councilman Lambert noted he would purchase the property for \$1.5 million. Mayor Crewe noted that Mr. Largen's contract is assignable, and that number is already there. He inquired as to how much lower than this does the Council desire to go. Councilman Weisiger noted he feels that if Alco has the property under contract for \$1.5 million, this is what Alco is going to stay with, and to inquire if the Foundation would donate something toward the purchase. Councilman Lambert noted that is correct. Mayor Crewe remarked that there is one other part of this that the Council needs to consider that has been discussed, and noted that the Town is considering rezoning the property to B-1 Business, and they may argue that the Town is doing this to keep the price down because it is not as valuable as a manufacturing piece of property. He advised that he did not know this, but he thinks this is what they may state. Mayor Crewe indicated that he did not know if this changes anything or not. Councilman Lambert noted that he doubts this would be a valid argument. Mayor Crewe remarked that it may not be valid, but it is certainly one he would raise if he owned the property. He inquired as to what the Council thinks about this. Mayor Crewe indicated that he can go right now and look up what the appraisal is on the property. He stated he can go to Wythe County's web site and find the reassessment and find out what the property was assessed at, and the Council can get that number in 10 minutes. Councilman Lambert noted he would like to find out what the property was reassessed at. Mayor Crewe stated that has nothing to do with it, and Mr. Largen has a contract for \$1.5 million, and this seems to him that this number is probably firm set, and the Town could negotiate from there. He noted that the Council can decide to call or not. Councilman Lambert noted that he would vote yea for the Mayor to call about the Alco property. Councilman Weisiger commented that the Mayor could call and see if the Foundation would donate something back. Mayor Crewe noted he could inquire if the Foundation would either make a donation or lower the price in such a way that the outlay by the Town would be less than \$1.5 million and inquired if that is what Councilman Weisiger is stating. Councilman Weisiger noted that is correct, and then the Council can decide what they want to do after Mayor Crewe finds out what Alco or the Foundation states. Mayor Crewe inquired regarding what Vice-Mayor King would state about this. Vice-Mayor King remarked that she did not desire to comment. Mayor Crewe remarked that he will vote in favor of making the telephone call, and there are three Council members who are in favor of making the telephone call. He advised he will do this with Councilman Lambert's help to see what type of selling price number the Council can receive from Alco or the Foundation. Mayor Crewe indicated that he will come back to the Council and tell them what he found out. It was the consensus of the Council to authorize Mayor Crewe to contact the proper authorities in conjunction with the Alco property. Town Manager

Sutherland noted he was just trying to figure out about the logistics. He inquired if they have a contract with a real estate agent. Mayor Crewe noted that is correct. Vice-Mayor King inquired as to where the real estate agent would come in. Mayor Crewe noted that they would have to pay the real estate agent a commission, probably 10 percent normally. He noted that the Town would have to go through the realtor, but the Town will find out, and he will make the call. Town Attorney Kaase advised that it would be good if the Town knew when the real estate contract ran out. Mayor Crewe requested Councilman Lambert to ask Mr. Largen if the Town could review his contract to see the assignability claim. He noted that Mr. Largen may not let the Council look at the contract, but he has been agreeable thus far.

RE: WYTHEVILLE MARKETPLACE

Vice-Mayor King inquired as to what is happening with the Wytheville Marketplace. Mayor Crewe noted that he saw a bunch of blocks sitting out there today, and inquired if Vice-Mayor King is referring to where Sheetz is going to be constructed. Vice-Mayor King noted that is correct. Mayor Crewe inquired if Sheetz has obtained their building permit. Town Manager Sutherland answered that he did not know if Sheetz has obtained their building permit. Vice-Mayor King noted that she had heard the rumor that Sheetz was not coming to town. Town Manager Sutherland noted that is not correct, and indicated that they have a civil engineer, etc. Town Clerk Hackler advised that Sheetz had called Director of Public Works Hackler about the water and sewer. Mayor Crewe indicated that the blocks he saw out there does not appear to him to be those rounded blocks like they are using to build the retaining walls, but it appears to be regular concrete blocks. He noted he would assume that they are getting ready to build a foundation of some kind, or they would not have the blocks out there. Vice-Mayor King noted that she would have thought Sheetz would have been ready to start construction when the road was completed. Mayor Crewe inquired if Sheetz is on the end closest to Town, and the bank is on the end furthest from Town. Assistant Town Manager Moore noted that Sheetz is going to build across from Commonwealth Boulevard on the corner. Town Manager Sutherland noted that the bank is closest to the Jackson property. Assistant Town Manager Moore indicated that they have site plans. Vice-Mayor King inquired if Town staff has any idea of what is going on the shopping center property. Assistant Town Manager Moore indicated that the only three structures the Town knows about are a bank, Sheetz, and between the Jacksons and the bank, they are building four shops, but they do not know who will occupy those. Vice-Mayor King noted that she would have thought that they would have had tenants for all that land. Mayor Crewe advised that he thinks they probably do have somebody in discussions, but no one is going to sign a contract just yet. Mayor Crewe noted that Council will remember how it was with Wal-Mart. Councilman Lambert remarked that he knows they hope they have some tenants.

RE: ADJOURNMENT

There being no further business to be discussed, a motion was duly made, seconded, and carried to adjourn the meeting (8:05 p.m.).

Trenton G. Crewe, Jr., Mayor

Sharon P. Hackler, MMC, Clerk of Council

BUDGET AND FINANCE COMMITTEE REPORT

AUGUST 13, 2007

1. Over the past several months, our Committee has reviewed certain increases in fees and permits that have been recommended by the Town's staff. The fee increases that have been proposed are generally in two broad categories. First, there are a number of fees for permits, etc. that are related to building inspections and zoning and/or subdivision reviews. The second broad category is increases in certain fees associated with the cemeteries. We have attached for your review a schedule that outlines the fees that are proposed to become effective. In all of these categories, the increase in fees merely reflects an effort to cover the expenses the Town incurs in performing these services. For example, the increase in fees in openings and closings of cemetery spaces reflects that some funerals occur after regular business hours, which requires the Town's staff to be on overtime pay to perform these duties. Increases in the fees associated with the crypts in the mausoleum reflect an increase in the materials used to encapsulate a burial vessel in the mausoleum. The increase in building permit and zoning fees merely reflects the personnel expenses involved with these activities. For example, a subdivision or zoning review process may involve a number of the Town's staff over a period of a couple of months. The fees that have been charged previously do not come close to covering the expenses incurred by the Town.

Having said that, it would be the recommendation of the Budget and Finance Committee that the attached fee schedules be approved and that they become effective immediately.

2. Last week, our Committee received a request from the Wythe-Grayson Regional Library for additional funding. We had previously appropriated \$1,730 for the library, but have been requested to make the total appropriation \$3,500. Unfortunately, we had misunderstood what the total appropriation request was and, therefore, had only funded it at about one half of the level requested. It would be the recommendation of the Budget and Finance Committee that the total appropriation for the Wythe-Grayson Regional Library Board for fiscal year 2007-08 be established at \$3,500.

Jacqueline K. King

John W. Jones, Jr.

PUBLIC WORKS COMMITTEE REPORT

AUGUST 13, 2007

1. Our Committee has received a request from the Saint Mary's Catholic Church seeking the closing of Fifth Street between Main and Monroe Streets on Saturday, October 6, between the hours of 6:30 a.m. and 4:30 p.m. Each year, the Catholic Church has a Fall Festival, and it has been our practice in past years to accommodate the request to close the street for the church. We have contacted the Police Department, and we do not anticipate any problems with the closing of Fifth Street for this period of time. Therefore, it is the recommendation of the Public Works Committee that we honor the request of Saint Mary's Catholic Church to close Fifth Street between Main and Monroe Streets on Saturday, October 6, between the hours of 6:30 a.m. and 4:30 p.m.
2. We have received information from the Virginia Department of Transportation concerning the Six-Year Improvement Program. According to Mr. Mark White, the State Urban Engineer, funding for the Connector Road, now named Community Boulevard, should be complete by the end of 2008. This would mean that this project should be bid in 2009, with construction being completed during 2010. This section of roadway is approximately 1.3 miles long and will cost about \$6,091,000 to complete. This project has been in the Six-Year Improvement Program well in excess of six years, and we are pleased that it is now approaching being fully funded. The Virginia Department of Transportation also

noted that we are in a position to identify a new project that will be in the Six-Year Improvement Program. Through the years, we have identified many sections of roadway that we would have liked to have been included in the Six-Year Program, though none of these have been approved. The Department of Transportation requested that the Town submit a new project prior to December 1, 2007. Over the next few weeks, our Committee will review all of the identified roadway projects and will make a recommendation to the Council. Once the Council agrees on this new project, it will be necessary to adopt certain resolutions and to conduct a public hearing. There is no action required on the Council's part at this time, but we did want to alert everyone that we will need to identify a new project.

William B. Weisiger

H. Judson Lambert