

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE TOWN COUNCIL  
HELD IN THE COUNCIL CHAMBERS ON MONDAY, SEPTEMBER 10, 2007, AT 7:00 P.M.**

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

Members absent: H. Judson Lambert

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, Police Officer John Claypool, Police Officer Brad Boggs, Police Officer Rose Cox, Police Officer Chris Coleman, Police Officer Scott Mitchell, Kathy Anderson, Danny Gordon with WYVE/WXBX, Eddie Williams, Anita Semones, Gordon Yonce, Robert Surbe, Becky Grubb, Patricia Snapp, Linda DiYorio, Mark Mills, John Crowgey, Nancy Crowgey, Michael Graham, Brenda Graham, Herb Craft, Marietta Bass, L. C. Wood, Heather Wood, Clarissa Wheeler, Jill Snider, Stephen Snider, James Wheeler, Laura S. Halsey, Coleman Shuler, Patty Singleton, Vicky Petty

**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 Jones followed by the Pledge of Allegiance led by Vice-Mayor King.

**RE: CONSENT AGENDA**

Mayor Crewe presented the consent agenda consisting of the minutes of the regular meeting of August 27, 2007. A motion was made by Vice-Mayor King and seconded by Councilman Weisiger to approve the consent agenda consisting of the minutes of the regular meeting of August 27, 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., William B. Weisiger. Against: None.

**RE: PUBLIC HEARING – GRAHAM SPECIAL EXCEPTION PERMIT**

Mayor Crewe stated the meeting constituted a public hearing (due notice having been given) 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 between Pine and Spiller Streets in an R-2 Residential District (southwest corner of Fourth and Pine Streets). He explained that this request has already been before the Planning Commission, and the Council will consider this matter later on the agenda. Mayor Crewe inquired if there are persons present who wished to address the Council during the public hearing.

Mr. Michael Graham was recognized and stated he is asking for the special exception permit to provide him with a larger and more desirable market in trying to lease or sell his property at 495 North Fourth Street. He indicated he has tried to sell the property several times. Mr. Graham advised that he was before the Council over three years ago asking for the same thing, and it died from lack of a motion. He stated he still has not had any luck selling the property, but noted that he has rented it a few times since then. Mr. Graham noted that the renters will not stay in the house due to the noise, and he just honestly believes the best use of the property is for some type of business office and not residential. He stated this is for a few basic reasons and this includes the location on the corner with the traffic signal on a very busy four lane highway in town. Mr. Graham noted that due to all of the increases in businesses that are at the end of Fourth Street, such as Wal-Mart, etc., the traffic counts have gone up to 3,000 on Pine Street and up to 14,000 in 2005 on Fourth Street. He pointed out that the traffic and the noise are only going to increase. Mr. Graham advised that in his front yard, he cannot carry on a conversation, and it just does not seem to be typical residential property. He noted that even the possible tenant, such as a business, is probably more desirable, even for his neighbors. Mr. Graham stated he would not try to decrease his property values or any of his neighbors' property values. He noted that for any concerns his neighbors may have, businesses generally take good care of their property, and they look to the zoning a little bit, and it seems to be more restrictive to business property than residential property. Mr. Graham indicated that he tries to protect his neighbors and himself, and he is very particular about his renters. He stated that a person never knows how residential renters will act, but noted this could go for business renters, too, but it is not as likely, he would think. Mr. Graham advised that residential safety is another issue. He noted when he lived in the house recently, he has three sons, and this location was not good for

them. He indicated that it was not suited for them to ride their bikes, etc. Mr. Graham explained that his children could not play in the front yard, and several times there have been accidents where cars landed in his front yard. He noted they now live right outside of town in Muskrat behind the rock quarry. Mr. Graham stated he thinks the safety is another reason that this property is not the best use as residential property. He summarized that these are a few of the basic reasons he is asking for the special exception permit. Mr. Graham reiterated that there is a lot of traffic there, and he is just asking for a special exception permit for an attorney's office, real estate office, accountant's office, or some office like this. He stated the Planning Commission was rather specific, and they put restrictions on it not to create any extra noise. Mr. Graham pointed out that the traffic is already there, and it would not create any extra traffic out of 14,000 cars already. He stated even the Town of Wytheville, in its Comprehensive Plan, he thinks, realized the best use of the properties down through there will be business. Mr. Graham indicated that he knows some of his neighbors, such as Ms. Halsey, Ms. Singleton, Mr. Durham, or the Woods may have some reservations, but he thinks any concerns could be addressed. Mayor Crewe thanked Mr. Graham for his comments.

Ms. Heather Wood was recognized and stated she does not feel this would be a good idea. She noted that before the stop light was placed at Fourth and Pine Streets, there were many accidents, or as people say today "crashes." Ms. Wood remarked that when she was a teenager, she had a crash at this location. She noted even now that the stop light has been installed, there are still many crashes. Ms. Wood indicated she feels that if there is some type of business placed there, it will still cause more traffic and more confusion. She pointed out that, currently, a person is permitted to park on the right side of the road as a motorist comes down Pine Street. Ms. Wood advised that the way their driveway is designed, on Pine Street, they can pull out coming down the hill. She stated it is difficult to look and see up the hill sometimes because of the way the trees and bushes are on other properties, and people go very fast down the hill. Ms. Wood reiterated that she thinks if there is a business, people will park along the side. She noted she thinks it will block the view of traffic, and it will obstruct the view of the traffic. Ms. Wood stated that she also thinks it will back up traffic. She remarked that a lot of students use this street to travel to and from the high school. Ms. Wood noted that buses use this street going to and from the high school and Spiller Primary School. She reiterated that she does not feel this would be a good place for a business, and she feels like this business would congest the traffic more. Mayor Crewe thanked Ms. Wood for her comments.

Mayor Crewe advised that the reason the Council does a sign up sheet is so he will not miss anyone who desires to speak, so the minutes are complete, and the Council knows who is in attendance at the meeting. He stated if he is reading the sign up sheet correctly, Mr. Graham and Ms. Wood were the only ones who indicated they desired to speak during the public hearing. He inquired if there are others who wished to address the Town Council during the public hearing.

Mr. Larry Wood was recognized and stated he has been a resident in Wytheville since 1980. He stated they bought the house at 475 North Fourth Street, and it is a two story white house, an old farm house. Mr. Wood indicated that they gutted the house and redid it. He noted they live next door to the Grahams' property. He advised that there is a difference between someone wanting to sell a house and someone wanting to sell a home. Mr. Wood pointed out that they are selling a house. Mr. Wood advised that they wanted to go commercial to sell a house. He indicated that he has lived in his home during all of his grandchildren, and there are seven, and they all come to visit him. Mr. Wood stated their house sits back from Fourth Street so the noise does not bother them like it would on the front. He noted he objects to having a business next door to what he considers home for him and all of his family, and he would like to keep it this way. Mr. Wood indicated that if a business was put on the lot, he cannot understand how or where there would be any parking. He pointed out that it is illegal to back into the traffic, and the only place he could figure for parking would be on the side on Fourth Street. Mr. Wood advised that maybe Mr. Graham could remove the garage and put parking back there behind the house. He stated that still, people will have to back out if they pull in, and they will be backing out into the traffic. Mr. Wood indicated that this is a high traffic area, and it going to be more hazardous to other people. He reiterated that he objects to this request, and he has lived there since 1983. Mr. Wood stated he considers this his home as well as his children's and grandchildren's home, and he would like to leave it that way. Mayor Crewe thanked Mr. Wood for attending the meeting and for his comments.

Ms. Patty Singleton was recognized and stated she lives caddy corner from the property that the Grahams want to rezone. She indicated that she is probably the closest home to Fourth Street. Ms. Singleton advised that her driveway is on Pine Street, and it is an awkward driveway, which she had paved. She noted she has lived there for about 12 or 13 years, and she raised two daughters there. Ms. Singleton remarked that it was convenient, and it is a nice neighborhood. She indicated that she understands it is going to be used for special things like an insurance office, lawyer's office, etc., but parking is a real issue in her mind. Ms. Singleton pointed out that the intersection is horrible. She advised that even as she was moving in, they were expanding

Fourth Street, and, they, obviously, needed the lights. Ms. Singleton stated that even with the lights, there is squealing and accidents she has witnessed. She advised that she knew about the noise before she moved in, and it, obviously, has become a lot worse over the years. Ms. Singleton noted that she is for progress, and she knows that Wytheville is growing, and that is great. She remarked that she thinks right at that area, it is not a good idea for rezoning at this time until traffic becomes under control before things change. Ms. Singleton advised that Mr. Graham had suggested at the Planning Commission meeting that the garage would be torn down, and there would be a parking lot. She noted this might be helpful. Ms. Singleton remarked that it might be helpful also, if this is approved, that there are limited hours on the business and that whenever the business changes to anything, such as a tattoo parlor, for example, but she would hope not, it would be considered that this is a neighborhood. She pointed out that she walks in the neighborhood. Ms. Singleton noted that maybe a no parking during certain hours sign would be helpful, and certain yellow lines may help on Pine Street. She advised that people race down Pine Street to get through the light. Ms. Singleton pointed out that this is where the accidents occur. She noted that maybe signs that state "Slow" and maybe more police officers to work during the rush hours during the morning, evening, and lunchtime would be helpful. Ms. Singleton advised that it is really difficult for her to get out of her driveway in the morning when she goes to work, as well as when she comes home from work, when she wants to turn into her driveway, even when it is not rush hour, she has to make a rather quick turn, especially if she is making a left into her driveway. Ms. Singleton remarked that she has just about gotten hit several times because the cars are coming down the street really quickly. She stated she knows there is another rezoning that is appearing up on the corner at Ridge and Fourth Streets. Ms. Singleton noted that right now, there is a lot of business there. She indicated that she feels differently about that because the business is going up that way. Ms. Singleton advised that she really does not want this approved unless there are very specific guidelines as to what will go in the house and what happens if it is sold to the next business, and if this would, again, be brought up. She inquired if the Council will be limiting it specifically to insurance offices, lawyer's office, etc., that maybe do not have a lot of clients coming in at one time. Ms. Singleton noted that at the Planning Commission meeting, they suggested the hours for the business to begin at 8:00 a.m. She pointed out that this is terrible around this time period, and if anyone travels it, they know because people are traveling to George Wythe High School and Spiller Primary School, and it is one of the main ways to get across town in that direction. Ms. Singleton stated she has seen traffic rerouted because of accidents on I-81. She noted that in the work she does, they have an emergency preparedness plan, and advised she is sure the Town does also, and she sees plenty of big tractor trailers, and she does not know what they are carrying. Ms. Singleton noted this is another issue for neighborhoods. She pointed out that she likes her neighborhood, and these would be suggestions she has if the special exception permit gets approved, and getting some of the traffic slowed down somehow or maybe installing some "No Parking" signs during certain hours. Ms. Singleton indicated that she would need a little parking because if people come over to her house, she can only handle a couple of cars in her driveway, or the vehicles will be hanging out of the driveway. She stated this is all she has to state. Mayor Crewe thanked Ms. Singleton for her comments and for attending the meeting.

Mayor Crewe inquired if there are others who wished to address the Council during the public hearing for the special exception permit. There being none, he noted he would like to clear up several issues. Mayor Crewe remarked that most of the speakers have also attended the meeting of the Planning Commission. He explained that the Council will take this up again on their agenda at this meeting. Mayor Crewe advised the motion that comes to the Town Council is from the Planning Commission. He stated the Planning Commission placed six restrictions on the special exception permit. Mayor Crewe explained that it is not a rezoning request, but it is a special exception permit request. He advised that the recommendation from the Planning Commission is that the special exception permit be granted with the following stipulations: (1) Only professional offices be permitted; (2) No type of retail business would be permitted; (3) Any alterations to the building or any new building would be residential in character subject to review by the Board of Architectural Review, and it would have to meet the setback lines and configurations of the R-2 Residential District and remain residential in character; (4) Signage would be restricted to one sign less than 9 square feet on the Fourth Street side, and one sign less than 5 square feet to indicate the parking area; (5) The hours of operation for the professional office would be 8:00 a.m. to 7:00 p.m. Monday through Saturday; (6) All parking shall be required to be off street parking and to be as far away from the intersection as possible and to preserve the large tree, if possible. Mayor Crewe explained that this is what has come before the Town Council, and they will be considering it later in the meeting on their agenda. He noted this is so that those attending the meeting will know where the Town Council is in this issue.

Mayor Crewe inquired if after this review, if there are others who wished to address the Town Council during the public hearing on the special exception permit. There being none, Mayor Crewe declared the public hearing on the special exception permit request closed.

## **RE: CITIZENS' PERIOD**

Mayor Crewe stated the next agenda item is Citizens' Period. He noted he is glad to see so many residents in attendance at the meeting.

Mrs. Linda DiYorio was recognized and noted she is attending the meeting on behalf of the Wytheville-Wythe-Bland Chamber of Commerce to make the Council aware of some ideas that are being discussed to change the Christmas Parade. She noted it is the opinion of the Board of the Chamber of Commerce that the Christmas Parade participation has somewhat dropped off in recent years. Mrs. DiYorio indicated that they are trying very hard to come up with some ideas that might regain a little more excitement and a little more involvement from the town and community. She stated their first discussion is to change the date to Saturday, November 24, 2007. Mrs. DiYorio pointed out that this is the Saturday after Thanksgiving, at 3:00 p.m. She advised that they are discussing the theme this year to be a Jamestown Christmas, and this idea came from Mr. Danny Gordon. Mrs. DiYorio indicated that they would also like to make a slight change in the route of the parade, keeping it the same until it gets to First Street, but turning left onto Monroe Street and going into Withers Park. She noted they would hope that instead of judging the floats coming up the street, the Town Council would be agreeable to having the floats line up in the park and the judging would be done there. Mrs. DiYorio remarked that some other ideas they have been researching is they would like to invite someone from Jamestown to come and lead the parade. She noted they are trying to locate more music. Mrs. DiYorio stated they have talked about maybe some carolers on the street in period costume similar to "Dickens of a Christmas" in Roanoke. She noted they are looking into carriages and horses, and things such as this, but this is just in the discussion stage. Mrs. DiYorio advised that since most of the students in their public schools have studied Jamestown this year, there has been a conversation with Dr. Armentrout that maybe the school classes could build some floats reflecting Jamestown and those would be judged separately from the floats for commercial, civic, and churches. She commented that they spent quite a bit of time researching what other communities are doing. Mrs. DiYorio indicated that she will let the Council know that the Town of Abingdon does have some wonderful floats, but when they talked to them, they rent the floats and they bring them in, and different businesses or industries pay for the rental of those floats. Mrs. DiYorio remarked that they have also talked to the City of Roanoke, and they have a "Dickens of a Christmas" for three consecutive weekends in December with their parade on Saturday, and they also rent their costumes and the things that are in the parade. She noted that they are going to try to draw on local resources. Mrs. DiYorio advised that they really hope some of these ideas are interesting to the Town Council, and that they will support the Chamber's ideas for a different Christmas parade. She noted that she thinks the Council has already received a letter from the Chamber. Mrs. DiYorio thanked the Council for the opportunity to address the Council. She inquired if the Council has any questions. Mayor Crewe inquired if there are any questions for Mrs. DiYorio. He stated that personally, he does not think there is a problem in switching the Saturdays, but the only thing he could see is if there is bad weather or a breakdown on the interstate, the Town would have to close Main Street and an alternate route would have to be picked. Mayor Crewe noted that other than something odd such as these things, he does not think it makes a difference in the Saturdays. Town Manager Sutherland stated he does not think it makes a difference in which Saturday the parade is held. Mayor Crewe indicated the only other issue that occurred to him is that if the floats go to Withers Park, there may have to be some kind of size restrictions where they would fit on the track, and noted that there are a couple of narrow spots that may be problematic, but the Town has done this before, and he does not think this is a big deal, but it is just something that someone has to think about. He noted a person cannot take a 14 foot wide trailer through a 12 foot wide whole. Mrs. DiYorio advised that, hopefully, the Town would work with the Chamber on all of this. Mayor Crewe inquired if anyone sees any big problems with anything that Mrs. DiYorio has talked about. Vice-Mayor King stated she thinks this is a good idea. Mayor Crewe noted that the Chamber of Commerce could try these new things and see what happens. Mrs. DiYorio thanked the Town Council for their time. Mayor Crewe thanked Mrs. DiYorio for attending the meeting.

Mayor Crewe inquired if there are others present who wished to address the Town Council on any subject other than the property on Van Mar Drive. Mr. Shuler noted he would like to address the Council. Mayor Crewe advised Mr. Shuler that he would be with him momentarily. Mayor Crewe inquired if everyone else who desires to address the Council is speaking about the property on Van Mar Drive. Mayor Crewe thanked everyone for attending the meeting, and indicated that he is trying to minimize their time.

Mr. Coleman Shuler was recognized and stated he will try to be brief. He thanked the Council for permitting him to be able to address them. He remarked that as he wrote on the sign up sheet, he wanted to respond to the offer that was made to him. Mr. Shuler indicated that he had written a letter last Thursday that he presented to Town Manager Sutherland, and some of the Town Council members were present. He noted that because of what had happened in the past, that letter indicated the sacrifice he is willing to make if the judge happened not to approve the

cooperative effort that was done between Mr. Stratton, the Town, and the Commonwealth. Mr. Shuler remarked that he came up with something that he offered to see whether it would meet with the Council's approval because Mr. Stratton did tell him that he had to show completion, which, of course, everything has not been completed, but he was appointed after that court order was entered. He noted that as the Council knows, he does not know too much about how the legal system works, and Mr. Stratton has helped tremendously. Mr. Shuler stated he trusts that the conversations Mr. Stratton has had with the Town and the Commonwealth have been productive. Mr. Shuler indicated that he appreciates the Council's efforts because even though he was not there, Mr. Stratton has come back with things that have truly been a blessing to him. He advised that the other option was the Council would offer other options of cooperation with the judge's approval. Mr. Shuler indicated that what he was going to ask is if the six people who have been being involved in the separate meetings, which to his knowledge are Town Manager Sutherland and Building Official Massie from the Town, and indicated that there may be others, but these are the only two that Mr. Stratton told him about; Mr. Mabe and Mr. Slavin from the Commonwealth's Office; and, of course, he and Mr. Stratton have just been talking amongst themselves. He advised that if the six of them could get together, and if they would like, they could come to his house, and if they want to do any inspections, take any pictures, or whatever, but assess where they are today, and then whatever options that relate to those five things—the automobiles, the pallets, the walls, the tarps, and the trailer—then, get that done, and then come back and actually evaluate the progress that has been made. Mr. Shuler stated he left that on Mr. Stratton's machine, but he is sure that Mr. Stratton has been so busy he has not been able to get back to him. He remarked that he does not know, and advised he does not know if Town Manager Sutherland knows, whether the attorneys do plan to go ahead and take it before the judge Wednesday, and if they do, this is what he would like to ask the Council to do. Mr. Shuler noted that he would respectfully request that if it is still on the agenda on Wednesday to go before Judge Showalter and the Circuit Court, based on the communications he has had with Mr. Stratton, he would truly appreciate if the Mayor and the Town Manager would come, and indicated he did not know what to call it, not as witnesses, but just to testify on his behalf that, "Yes, Coleman made a good faith effort. He came before us, and we are willing to cooperate." He noted that also, if the Council is willing, he would like to ask the Council to vote, and if there is a majority of the Council that votes, enter a resolution that the Council is on record as favoring what is going on in other conversations so that he actually has a document to present to Judge Showalter. Mr. Shuler remarked that as he has stated, it is even possible that Mr. Slavin, Mr. Sutherland, and Mr. Stratton would say, "Hey, we cannot get everything ready," and they might even ask for a continuance. He stated he had some specific ideas and stuff, and he will state this, and noted that Town Manager Sutherland may want to comment to the Council, when Mr. Stratton called him Wednesday night, the letter he wrote to the Council and gave to them on Thursday morning, states, "Hey, if the April order has to stand, and there is further punishment..." and noted the reason he asked and was willing to give up is because he knows if he stays here, he has to fight for what he believes in. Mr. Shuler continued that the reason he is asking the Council for no more punishment is because with the medications he takes, the last time he was in jail, he was without his medicines for seven days, and noted he did not know what it was, but his left arm and his left leg were numb for he wants to state 12 to 18 hours. He noted the reason he does not know is because there are no clocks in the jail unless the guards tell a person what time it is, and a person does not know if half a day has passed, three hours or whatever. Mr. Shuler remarked that he took about four or five medicines, and when he just stopped taking them, he did not know if it was a reaction to that, but he had some weakness and paralysis, and he could not move his left arm and leg. He stated one of the inmates called the guards who took him in a wheelchair and put him in an isolation cell in the medical ward and just left him unattended for about six or eight hours. Mr. Shuler remarked that he was really weak and about to pass out, and he just finally slid down on the concrete floor, and he did not know how many hours he laid there. He noted that eventually, he sort of got to where he could walk again, but it was sort of scary because there are things he will die for, but advised that he really did not want to die from lack of taking his medicine and stuff. Mr. Shuler continued that like he stated, he did do those things that Mr. Stratton said, and everything he asked the other day, he has done it. He remarked that if the Council wants to ask any questions about that because he does not know if Mr. Stratton gave Town Manager Sutherland the list, but just for his health he would ask this. Mayor Crewe noted that he would like to respond briefly. He stated that number one, as the Council has been stating for 20 years now, until the nonconforming structures are made to conform, there is no discussion possible. Mayor Crewe explained that this has been the situation, that is the situation, and nothing has changed. He stated if Mr. Shuler removes the items that need to be removed, fixes the items that need to be fixed, and whatever the situation is to remediate it, once they are conforming structures, then the Council and Mr. Shuler can talk. He pointed out that until then, the Council does not have anything to state. Mayor Crewe indicated that there will be no document issued based on what the Committee talked about at their meeting on Thursday when Mr. Shuler attended. He stated anyone on the Council who desires can comment, but until Mr. Shuler complies, the Council has no point in any discussion. Mayor Crewe advised that number two, any matter of punishment is not up to the Town. He stated the Town did not recommend anything, and the Town did not ask

for anything, and the Commonwealth Attorney's Office is doing that. Mayor Crewe pointed out that this is between the Commonwealth Attorney's Office and Mr. Shuler's attorney, not the Town. He stated the Town Council does not get to vote on the punishment, and cannot help or hurt. Mayor Crewe advised that number three, when Mr. Shuler is talking about him and Town Manager Sutherland attending court on Wednesday, he, particularly, is out of town on business on Wednesday, and will not be in court. He noted that number four is that Mr. Shuler requested a document and, at this point, unless someone knows something he does not know, there are no documents possible because the nonconforming structures continue to be nonconforming, and until that changes, there is no discussion possible. Mr. Shuler inquired if the Council knows what Mr. Stratton meant by stating that the Town would offer other options of cooperation. He stated that what Mayor Crewe stated, the first part, he has not gotten that stuff completed. Town Manager Sutherland interjected that the nature of the Town's and Mr. Stratton's discussions was that Mr. Stratton was concerned about the potential for Mr. Shuler to go back to jail. He noted that Mr. Stratton also expressed his intent that he would have Mr. Shuler do these chores and get rid of the cars, the trailer, etc. Mr. Shuler inquired if Town Manager Sutherland means doing all of this from Thursday. Town Manager Sutherland stated he did not know, and Mr. Stratton did not specify a time frame, but Mr. Stratton was trying to provide assurances that this would be done. He reiterated that the nature of their discussion was that the Town has no desire to do Mr. Shuler any harm, and if the property is cleaned up, then life is good. Mr. Shuler noted he can tell the Council what options he can do about the cars. Mayor Crewe indicated that there is no point in Mr. Shuler explaining this to the Council, and he needs to tell it to the court. He noted if it is done, and if something changes, then Mr. Shuler's attorney will contact the Town, and the Council will react to it. Mr. Shuler remarked that this was stated about the Town, and he can talk to the Town more tomorrow. Mayor Crewe explained that what Mr. Shuler is in court for is a violation of the court's order to clean the property up. He noted that the court ordered Mr. Shuler to make the property conform, and when he did not do that, the court found Mr. Shuler in contempt of court. Mayor Crewe explained that this is the situation Mr. Shuler is in right now, and the Town does not have anything to do with that, and it is between Mr. Shuler and the court for not doing what the court ordered him to do. He noted if Mr. Shuler wants to do it, tell the court that. Mayor Crewe remarked that the Town would be delighted to have all of this stuff done, but until it is done, as he stated a minute ago, the Town and Mr. Shuler have nothing more to discuss. Mr. Shuler inquired if he could ask a question because, in other words, the Council knows the reason he has not been able to get it done was his health and his finances. He remarked that he can actually move the cars over to the farm, but that would be counterproductive because he has been getting people to come and get estimates of how much..., so far, the offers..... Town Manager Sutherland inquired if Mr. Shuler is talking about moving the cars to Ridge Road. Mr. Shuler stated that is correct because that would be moving them from the premises. Mayor Crewe indicated that this moves the problem, but it does not solve the problem. Mr. Shuler noted that is correct. Mayor Crewe indicated that moving them to the farm on Ridge Road would not be in compliance with the court's orders. Mr. Shuler remarked that he guessed he misunderstood because this is what Mr. Stratton stated is that the Town and the Commonwealth were willing to ask the judge to deviate from the original order if he cooperated. He noted that these were Mr. Stratton's exact words. Mr. Shuler indicated that Mayor Crewe is correct about what the original order stated, but Mr. Stratton stated that Mr. Sutherland, Mr. Mabe, and Mr. Slavin were willing to ask the judge to deviate from the original order if he cooperated. He advised that Mr. Stratton told him this Wednesday night, and he started Thursday morning, and he called the people in the "Trade Times." Mr. Shuler remarked that two people have come by. Mayor Crewe indicated that the only person who can answer that question is Mr. Stratton because he is the one who apparently made that statement. Mr. Shuler noted that is acceptable, but in other words, if he can get \$1,000 or \$1,500 or \$2,000 for the cars, and it takes a few more weeks to do it, but the Town states, "no," and he has to move them by Wednesday, or he will go to jail. He advised that he can get the vehicles moved over to the farm. Mayor Crewe noted that the Town is not stating this, it is the judge stating this, and this is why he is telling Mr. Shuler this does not concern the Town. Mr. Shuler inquired regarding the agreement that was reached. Town Manager Sutherland indicated that when he discussed this with Mr. Stratton he stated he would talk to his client again. He noted he told Mr. Stratton that this was something that the Town was open to talk about. Town Manager Sutherland stated he had no authority to just up and strike a deal with Mr. Stratton based on that conversation. Town Manager Sutherland pointed out he did state that the Town had no desire to send Mr. Shuler to jail, but the issue is if the property is going to be cleaned up. Mr. Shuler remarked that what he is inquiring is if Town Manager Sutherland did not state that the Town was... He noted that in other words, Mr. Stratton stated that the Town is one party and the Commonwealth, themselves, is another party, and they were willing to ask the judge, and noted that this was his exact words, "to deviate from the original order, if he cooperated." Town Manager Sutherland advised that he did not state that. Mr. Shuler stated that is acceptable. Town Manager Sutherland pointed out that of the property maintenance issues, there are some that are more serious than the others. He noted that he and Mr. Shuler have talked about this many times, about the trailer on Ridge Road, the junk cars, and the nonconforming wall. Town Manager Sutherland continued that he and Mr. Shuler know that these are things they have talked about

many, many years. Mr. Shuler inquired if someone would tell him what it would take to get the wall into compliance. Mayor Crewe noted that the wall needs to be removed. Mr. Shuler advised that the Town Code currently allows a person to have a privacy barrier and a solid barrier, and this is in the Town Code that was passed this year. Town Manager Sutherland noted that is in a rear yard, but in a front yard or side yard, the fence can only be four feet tall and 50 percent solid. Mr. Shuler inquired if Town Manager Sutherland has a copy of that ordinance at this meeting. Mayor Crewe noted that Mr. Shuler's fence does not comply. He stated he is not going to waste any more time, and the discussion is over. Mayor Crewe advised that the Town has told Mr. Shuler that when he complies and the nonconforming structures are conforming, Mr. Shuler and the Council have something to talk about. He noted until then, no more conversation is necessary. Mr. Shuler inquired if the Council would provide him with a copy of the ordinance because the way he read it in the minutes, at the meeting, it stated that an inoperable vehicle could be put in a closed building, a solid evergreen screen, or a solid wall. Mayor Crewe indicated that the wall has to comply. Mr. Shuler remarked that this is what he is asking is what it takes to comply. Mayor Crewe stated the Town can give Mr. Shuler a copy of that, and Town staff can actually fax one to Mr. Stratton. Mr. Shuler indicated that the Council is stating that the ordinance states exactly what it takes for the wall to comply. Mayor Crewe explained that the ordinance states what conforming structures are and what kind of fences there are, but it does not tell a person how many square inches, etc. He advised that the Council is wasting more time than they have, and when Mr. Shuler complies, he and the Council will have something to discuss, but until Mr. Shuler complies, no discussion is necessary. Mr. Shuler inquired if the ordinance states what it takes about the wall. Mayor Crewe answered that all of the ordinances the Town has are available on line, Town staff can make a copy of it and get it to him, and stated that Town staff can mail it to him, and Town staff can send it to Mr. Stratton. Mr. Shuler remarked that he would appreciate it if Town staff can get one ready, they can call him, and he will come by, or it can be mailed. He requested for Town staff to be sure and send him one, and fax one to Mr. Stratton since he is involved in it. Mayor Crewe noted that if Mr. Shuler is making a Freedom of Information request, there is a fee for that. Mr. Shuler stated he thought Mayor Crewe stated the Town would send him one. Mayor Crewe indicated that Town staff can send a one page copy to Mr. Stratton, which Town staff will do immediately. Mr. Shuler indicated that he definitely wants to comply. Mayor Crewe noted for Mr. Shuler to comply, and then he and the Town will have a discussion, but until then, they do not have anything to discuss. Mr. Shuler inquired if the ordinance states what the wall has to be to comply and inquired if that is correct. Mayor Crewe noted that Mr. Shuler cannot take the ordinance and go buy the fencing materials and build it from what the ordinance describes. Mr. Shuler indicated that this is what he thought. Town Manager Sutherland interjected that the ordinance describes the height that is permitted. Mr. Shuler inquired as to what height is permitted for the fence. Town Manager Sutherland indicated that he does not have the ordinance with him, but he believes it is four foot in the front yard. Mr. Shuler inquired if it is a solid wall. Town Manager Sutherland indicated that solid walls are not permitted in the front yard. Mr. Shuler explained that he is talking about the ordinance for the solid fence to screen the inoperable vehicles. Mayor Crewe advised that Mr. Shuler is talking about two different ordinances. Mr. Shuler noted that the inoperable vehicle ordinance is the only one that applies to him and inquired if that is correct. Mayor Crewe stated that is not correct. He noted that Mr. Shuler needs to talk to his attorney, and if Mr. Stratton needs a copy of the ordinance, the Town will be more than happy to supply one. Mr. Shuler inquired if Town staff will also send him a copy of the ordinance. Mayor Crewe noted that the Town will send the ordinance to Mr. Shuler's attorney. Mr. Shuler inquired if Town staff will not send the ordinance to him, too. Mayor Crewe stated the Town has sent Mr. Shuler the ordinances, and they have given them to him. Mr. Shuler noted that he has not received the ordinances, and he was at the Town Council meeting when he had it in writing, but that was back in April or whenever they passed the ordinance. Mayor Crewe stated that whatever was in the letter in April, Mr. Shuler received. Town Manager Sutherland indicated that there are copies free in the Town Office available that he can sit and read if he would like to do that. Mr. Shuler inquired if he could have one now. Mayor Crewe remarked that Mr. Shuler is talking about the fencing ordinance, the inoperable motor vehicle ordinance, and the setback lines in the Zoning Ordinance. He pointed out that there are three or four different ordinances that are involved in this conversation, and the Town Council does not have the time in a public meeting. He stated that Mr. Shuler and the Town have been talking about this for 20 years, and he and Town are no closer now than they were 20 years ago. Mr. Shuler interjected that this was not true. Mayor Crewe indicated that there is nothing the Town could tell him that he had not already told him multiple times. Mr. Shuler stated that he was not annexed into the town 20 years ago. Mayor Crewe noted he agrees with this. He stated the trailer was moved from the trailer park 20 years ago. Mr. Shuler advised that this is not true. Mayor Crewe inquired of Mr. Shuler as to how many years ago it was, and advised it was nearly 20. Mr. Shuler inquired as to when his property was annexed. Mayor Crewe noted that the property where Mr. Shuler currently lives now was annexed in 1990. Mr. Shuler indicated that this was not 20 years ago. Mayor Crewe stated that is correct, but advised that the trailer was a nonconforming issue on Ridge Road. Mr. Shuler advised that the trailer was not on Ridge Road when the Town annexed. Mayor Crewe explained that it has been multiple years and inquired if Mr. Shuler would agree with that, and it is not 20 years, but it

is more than 10 years. Mr. Shuler noted that he came asking about the wall, and nobody will tell him about the wall. Town Manager Sutherland remarked that Town staff will make that ordinance available to him. Mr. Shuler inquired if that ordinance would be available tomorrow. Town Manager Sutherland stated that is correct. Mr. Shuler indicated that he wants to try to get it done right away. Mayor Crewe remarked that the Town would be happy to have that happen. Mr. Shuler stated the Town does not seem happy to get this done because he asked for the ordinance tonight. Town Manager Sutherland remarked that there is no one to get Mr. Shuler a copy of the ordinance tonight. Mayor Crewe noted that they are a little busy tonight, if Mr. Shuler had not noticed. Mr. Shuler stated he has noted he would be willing to sell his house and leave if nobody will cooperate with him, and nobody responded to that letter. Mayor Crewe indicated that Mr. Shuler did not think he got the response he requested of the Town. Mr. Shuler noted that nobody responded period. Mayor Crewe advised that the Council just responded at this meeting. Mr. Shuler indicated that this was not the point. Mayor Crewe advised that the point is the Council does not have anything to discuss until Mr. Shuler complies, and this is the end of the discussion. Mr. Shuler remarked that he thinks everyone sitting at the meeting knows he is trying to comply, and the Town will not tell him. He noted if the Council claims it has been going on for 20 years, they have never given him the information as to how to build the wall. Mayor Crewe stated that Town staff will give him the fence ordinance, or the wall ordinance as Mr. Shuler is calling it. Mr. Shuler remarked that Mayor Crewe stated a minute ago it did not have it in the one ordinance. Mayor Crewe explained that the ordinance will tell Mr. Shuler how many feet in the height, the setback line, and what kind of permeability or visibility it has to have. Mr. Shuler pointed out that it is his name on the deed, and he has had to pay for it, and because of his health, he has been behind on the mortgage, and when he is trying to keep his house and someone else is just trying to find him in violation of ordinances, and he tried to make it in compliance, and the Council states it is all these many years, but has never given him a copy of what it would take to get it into compliance. Vice-Mayor King inquired of Mr. Shuler if he has ever asked for a copy of the ordinance. Mr. Shuler stated he has asked for a copy of the ordinance. Mayor Crewe pointed out that the Town has sent letter after letter telling Mr. Shuler what needs to be complied with, and the Town has gone into court and proven it in court, and that is just an absurd allegation without any basis. Mr. Shuler noted that the records will show it. Mayor Crewe advised that Mr. Shuler is entitled to his opinion, and the Town is entitled to its opinion. He reiterated that this discussion is ended and Mr. Shuler can leave now. Mayor Crewe indicated that Mr. Shuler is welcome to stay, but there is no further discussion. Mr. Shuler inquired if there are records of those letters in the file. Town Attorney Kaase requested Mr. Shuler to have Mr. Stratton contact him, and he will see to it that Mr. Stratton gets whatever he wants. Mr. Shuler remarked that he wants the ordinances. Town Attorney Kaase advised that Mr. Shuler is represented by counsel, and if Mr. Shuler will have Mr. Stratton contact him, he will take care of it. Mr. Kaase advised Mr. Shuler that he is on "thin ice" and he has been at the Council meeting too long. Mr. Shuler remarked that Mr. Stratton has been nice to him, and he believes every word that is on the sheet of paper that he told him. Town Manager Sutherland advised Mr. Shuler that he never made any kind of agreement with an attorney without consulting with the Town's Attorney to approach the court. He inquired if Mr. Shuler thought he was crazy. Mayor Crewe remarked that the Council will do everything they can to get this situation rectified. He noted to rectify it, the nonconforming structures need to be made conforming. Mayor Crewe remarked that he thinks he has stated this at least 10 times at this meeting. Mr. Shuler remarked that he is asking tonight what it would take to do that. Mayor Crewe indicated that the Town will get Mr. Shuler a copy of the ordinance through his attorney, and this is all the Council can state. Mr. Shuler advised that when he is trying to do what the Town is asking him to do, and no one has ever sent it to him before, because the Town can go back and look through their files, and they have never sent him a copy of what it would take. Town Manager Sutherland pointed out that right now, the only way Mr. Shuler is going to comply regarding the fence, whether he has the ordinance or not, is to take the thing down, and Mr. Shuler knows that. Mr. Shuler noted that this is according to what the court order states. Mr. Shuler stated that the court order is not in compliance with the Code, and as he has stated, he appreciates the Council's time. He noted he will check back with Mr. Stratton, and they will see where to go from here. Town Manager Sutherland advised Mr. Shuler that he is welcome to come and read all these ordinances, and he can sit somewhere tomorrow and read them. Mr. Shuler remarked that he gathers it is between Mr. Stratton and the Commonwealth, and he thought it was between all three, and he apologizes. Mr. Shuler stated he was just doing this in good faith. Town Manager Sutherland explained that he did have a conversation with Mr. Stratton, and he told him that the Town meant Mr. Shuler no harm if the property was cleaned, but they never made an agreement. Mr. Shuler indicated that he is guessing the statement Mr. Stratton made came from Jerry Mabe, the Commonwealth Attorney. Town Manager Sutherland remarked that it must have. Mr. Shuler remarked that Mr. Stratton did state that it was all three, and he could have been mistaken. He advised he took Mr. Stratton's word for it because, again, he has treated him totally fair and honorably and has been very helpful in every way. Mr. Shuler thanked the Town Council for their time. He noted he was honestly trying to solve the problem, and he will continue to do that. Mayor Crewe thanked Mr. Shuler for attending the meeting.

Mayor Crewe noted he will proceed, and he is trying to use the attendees' time as judiciously as their own. He advised that he will outline what he understands to be the situation with the property on Van Mar Drive as he received it when he arrived at the meeting. Mayor Crewe commented that if he has it wrong, Town staff can correct him. He noted that what he thinks most of those attending the meeting are focusing on, and the reason for so many people attending the meeting, and noted he hopes they will come to another meeting when it is a less entertaining meeting, and the Council is glad they are attending, but on August 24, Building Official Stan Massie issued a building permit for the home located on 365 Van Mar Drive. He remarked that this home is under the State Building Code, and he requested Town staff to help him if he has this incorrect, but he believes the correct term is it is an industrialized building unit. Mayor Crewe remarked that he will digress and state that over the last eight to twelve years, give or take, the State Code Building Codes have changed many times over what used to be a mobile home, a modular home, and pre-manufactured housing, and different terms have been changed by the State law. He stated the Virginia Department of Housing and Community Development has adopted the term "industrialized building unit." Mayor Crewe noted that an industrialized building unit has to comply with the State Building Code, the International Residential Code, and they need to have certain inspections done, data plates of information attached to them, Uniform Statewide Building Code certifications attached to them, etc. He stated all of this was done with this particular structure. Mayor Crewe explained that this was inspected by Building Official Massie and found to be in compliance. He stated one of the terms that is used in this is an "on frame modular" but it is an industrialized housing unit with all the appropriate labels, inspections, etc. Mayor Crewe noted it does have, as probably most of those attending have seen, a steel frame with wheels on it that are used to transport it, and once it is in place, the wheels come off, and it has a permanent masonry foundation under it. He advised that there are setup blocks as he understands it because the house was delivered in the last few days, and it is sitting on setup blocks to support the frame now. Mayor Crewe explained that those blocks will probably be retained but they will be shielded by a perimeter with a foundation. He stated he guesses where he is heading with this is that what years ago probably would have been called a mobile home or a doublewide, but under the State law, is no longer so specified, and in fact has to be built to a much higher standard than what the old mobile homes were, and it meets the State Code. Mayor Crewe inquired of Assistant Town Manager Moore or Town Manager Sutherland if he has misstated anything in the terms he has used of where the Town is with what has happened, etc. Town Manager Sutherland answered that he thinks this is an accurate description, and the structure was inspected by Building Official Massie, and it does comply with those regulations set forth by the Commonwealth of Virginia. He noted the structure is in conformance. Mayor Crewe remarked that the other issue that might be relevant, again from what he knows from walking in at this meeting, is this is an odd shaped lot, but the setback lines and the zoning are met. He noted it has a 90 foot setback, if he remembers correctly. Mayor Crewe reiterated that the setback line is 90 feet, and it complies with this. He advised that basically, the Town's position is that as it was in the process and inspected, both the unit and the place it sits, the footprint it has on the lot, are in compliance with the Town Code, the State Code, and International Building Code. Mayor Crewe remarked that having stated this, the Council will be more than happy to hear from anyone who desires to address the Council. He advised that the citizens should not worry about the time because the Council will be there as long as it takes, and, if necessary, the Council will set another session. Mayor Crewe noted he will start back through the sign up sheets, and he is going through the order that the citizens signed up and they were given to him to see who wants to speak on the topics. He thanked everyone for attending the meeting, and advised that the Council appreciates their participation. Mr. Mark Mills was recognized and stated he appreciates the Council's time. He noted he lives at 355 Van Mar Drive, right next to where this home is apparently being located. Mr. Mills indicated that his main reason for attending the meeting, and noted he understands that the home complies with everything as far as what Mayor Crewe just stated, is he feels that the home came in rather quickly on Friday evening. He noted that he knows, like he has stated, that the home does comply with the R-1 Residential zone, but what he does not understand is why the R-1 Residential zoning ordinance is not more specific and why it should allow that type of home to come into such a well established community. Mr. Mills indicated that he understands it is being termed as an on frame modular, but as he has stated, it looks really to be, honest, more like a mobile home. He noted he understands, also, that the Town cannot enforce the covenants that are in place within the community. Mr. Mills remarked that he is not asking for that. Mayor Crewe noted this is an important point. He explained if there are any restrictive covenants in the subdivision, that would not be a Town issue, and it would be a homeowners' issue amongst the people owning lots in that subdivision. Mr. Mills noted that is correct. Mayor Crewe remarked that the short answer to Mr. Mills' question is that these homes are built to the same specifications as stick built homes because that is what the State Building Code is requiring, and once it is done, the things that are looked at are the wind loads, the roof bearing capacities, and all of those things. He noted that in the old days, the mobile homes did not have to meet those requirements, but these homes do, and it is the same building code. Mayor Crewe pointed out that once these homes meet the building code, it is an allowable unit. He stated if it is built to the State Code, it fits R-1 Residential zoning, and it will fit anything if it is built to the State Code.

Mr. Mills noted that if this is approved, it would set the precedent throughout the rest of the town in the R-1 Residential zone. He advised that if a person wanted to do it, they could do the exact same thing in the Wytheview community or somewhere that is not protected by a community association, and it would be allowed. Mayor Crewe stated it is not a matter of being allowed so much as it is being prohibited. He explained that if the modular home is built in accordance with the Building Code and passes the inspections necessary for the building code, the Town could not stop it, and it would be illegal. Mayor Crewe noted that if it meets the code, it is legal, no matter what. He stated that in fact, these are international standards. Mayor Crewe indicated that there are international, national, and state standards, and the Town standards always adopt the State standards. Mayor Crewe noted it is basically the same set of standards, but the short answer is they have a rather good lobby to get the laws changed, but the building code is basically the same. He explained that the home comes on a set of wheels and looks like a trailer, but he thinks everyone will notice that this goes away rather quickly. Mayor Crewe stated that there are modular homes, which was the term before this, in lots of places in town. He noted that pre-manufactured housing was another term, and there are some of those in town. Mr. Mills advised that is correct, and what he has been informed, and the thing that sets this home apart from a regular mobile home, doublewide trailer, or whatever word someone would like to use is the fact that it has some type of letter designation within the serial number, etc. Mayor Crewe indicated that he does not think it is a label, and he does not think it is a letter. He noted that what it actually has, and advised he is looking at the documentation, is that the State Code and Building Code state that the Commonwealth of Virginia Department of Housing and Community Development has to have this certified and it has to have passed inspection as a registered industrialized building unit, and that is on this unit, and it is in there. Mayor Crewe remarked that when Mr. Mills is stating it is a letter in the serial number, he does not know about this, but there is actually a sticker that states it passed the inspection and complies with the State Code. He stated this is what the Town was looking for. Mr. Mills inquired as to whom this was issued by, and noted what he is trying to get at is if it was issued by the manufacturer or the seller of the home and inquired if that is correct. Mayor Crewe answered that he guesses, and noted what he is looking at, it is issued by Commonwealth of Virginia Department of Housing and Community Development. He explained that it is actually a State agency that is issuing the permit. Town Manager Sutherland advised that the manufacturer would actually affix it to the unit, and somewhere on the unit there is a plate affixed by the manufacturer, but the manufacturer has been certified by the Commonwealth to state that he has appropriately inspected this unit. Mr. Mills noted this would bring it into compliance with the local code. Mayor Crewe noted that is correct, or it would bring it into compliance with the State Code or the Federal Code. Mr. Mills remarked that the main reason is that, honestly, the home does look like a mobile home. He noted there are some concerned citizens at this meeting who are going to speak to the Council who are concerned about their own property values. Mayor Crewe noted that the Town is also concerned about everyone's property values. Mr. Mills remarked that good taxpaying citizens have a right to voice their opinion and everything on this. He stated it looks like the home is in compliance with everything the Town can do. Mayor Crewe noted if the home was not in compliance, the building permit would not have been issued. He stated this is why the home goes through the inspections. Mayor Crewe indicated that if everything does not meet the inspections, the building permit is not issued, and as the home is going in, the Building Official continues to make inspections. He remarked that if any of this goes awry, the process stops. Mayor Crewe commented that it is not like this is completely unregulated. Mr. Mills inquired if he would be wrong in stating that it is such an adverse home and reflection to what is already in place that maybe a little notice or possibly a public hearing beforehand would have been good. Mayor Crewe stated this may have been possible, and the Council could think about this, and the Planning Commission may want to think about this, and advised that Councilman Jones is the liaison to the Planning Commission. He pointed out that if the home meets State Code, the Town really would not have the ability to not allow it. Mayor Crewe indicated that if the home is in compliance with the State Building Code and meets the setback lines, all the zoning issues, etc., then the Town would be helpless to try and stop it. He stated the Town could conceivably issue some kind of regulation that some advanced warning has to be given or something like that, but the building permit was issued August 24, and noted he did not know about the lot preparation and what was going on. Mayor Crewe noted that the neighbors may have known there was a house going up and not known what kind it was until it rolls in on the delivery trailers or however it is transported. He explained that there have been other places in town that this has happened, too. Mayor Crewe indicated that he did not think the other houses were called industrialized building units, but there are a lot of pre-manufactured homes and modular homes that have been placed in other areas in town. He stated the label is different, he guesses, but the process is the same. Mayor Crewe remarked that he is just trying to explain where the Town got to this position. Mr. Mills noted that he understands. He advised that Mayor Crewe answered the question about the placard, and this was his main concern. Mr. Mills noted he just wanted to make sure the placard was not something that just comes from the manufacturer. Mayor Crewe stated that it is inspected by the State. He advised that he was not being flippant when he stated that the manufactured housing industry has enough of a lobby that they can change the definitions because that has happened several times over the recent

years. He noted that mobile homes are not allowed in the Town of Wytheville, and there are a few that have been annexed, but if they cease to be used or get burned up, etc., they cannot be replaced. Mayor Crewe remarked that it is very difficult to buy an old mobile home any more because the labels have changed, and they are now pre-manufactured housing, modular units, pre-constructed housing, and there are different terms for it. He stated all of those terms are regulated by the building codes, and that is where the housing industry has gotten the laws changed, and not only State laws, but a lot of those are Federal laws. Mayor Crewe pointed out that once the home meets the code, and the code is stricter, and they have to meet the same weight loads, wind resistance, etc. as the other homes, so it is not the same thing as a 20 year old trailer used to be because it is not built to the same code, and this is what he is trying to state. Mr. Mills advised that he understands. Town Manager Sutherland presented Mr. Mills with an excerpt of the placard in the home. Mr. Mills remarked that, again, the main reason he is attending the meeting is the fact of the way that it looks. He noted from what he has been told, it is going to be comparable or compared to another modular home or a doublewide trailer as far as appraisals and property values. Mr. Mills explained that he and some of his neighbors are attending the meeting to voice their concerns about this, and they do not want what they have there to depreciate. Mayor Crewe stated that the Town Council shares their concerns. Mr. Mills noted that they would request that if someone is going to move into a well established community, people should think about what is there and at least try to hold themselves to the same standards. Mayor Crewe thanked Mr. Mills for his comments and for attending the meeting. He advised Mr. Mills that he is sorry it took so long for him to be able to speak, and he appreciated everyone's patience.

Mr. John Crowgey was recognized and stated he lives in Wytheview, and he objects the same as Mr. Mills. He remarked that the Town has taken a nice subdivision, and they have not helped it any. Mr. Crowgey stated if this is called an industrialized building unit, then industrialized building units should be prohibited in R-1 Residential zoning. He noted he did not know if this is possible, but he would certainly think so. Mr. Crowgey pointed out that if the Town can prohibit a mobile home from being in an area, he thinks the Town could prohibit an industrialized building unit from being in an area. He advised that Mayor Crewe is sitting there describing this thing, and this is one of those times that when it looks like a duck, walks a duck, and quacks like a duck, believe him this is a "duck." Mr. Crowgey indicated that he knows there is some disagreement, and he agrees that the legal lobby has changed the definition so if the Town prohibits a mobile home, they can state it is not a mobile home, but at the same time, they can see this is a "duck." He noted he would recommend that the Planning Commission outlaw these industrialized building units in all R-1 Residential zones. Mayor Crewe stated the Town can consider this. Mr. Crowgey remarked that it reaches the point that it has detracted from all the existing homes in the area, and there is everyone in the area looking at every empty lot in the whole subdivision worried about who is the next one going to put one of these homes on it. He advised that these homes are not what the Council is thinking, and, in other words, when it comes in on a metal frame, and they jack it up and put it on a stack of cinderblocks, and they pull the axles out from under it, and everybody at this meeting would tell the Council that this is a mobile home. Mr. Crowgey noted he is sorry, but this is a mobile home, and that is what it is, and that is what the Town has allowed to come into this subdivision. He summarized that the Town has hurt the property values of everyone in that area. Mayor Crewe noted that this is something the Council can definitely consider. He remarked that he ought to point out the obvious, and that is if the Town was to change it so these types of homes were prohibited in an R-1 Residential zone, and even if it was done at this meeting, which would be impossible without public hearings published, etc., but if the Town Council was to do that immediately, it would not affect this unit because the building permit is already issued, and it complies. Mr. Crowgey noted it would protect every empty lot in every other subdivision. Mayor Crewe thanked Mr. Crowgey for his comments.

Mr. Herb Craft was recognized and noted he would be reiterating what Mr. Crowgey has already stated, and he would like to also look at some type of restriction. Mr. Craft noted he would like to reiterate that whatever the name of this unit, it is not the name that anyone is concerned about it, but it is the appearance and the depreciation of property values. He stated it is the almost stealing of equity of the people in the community. Mr. Craft remarked that what these people have done is brought in a place that has done this. He noted the people in this community have put in nice houses, they have made their investment, and they made that location a worthwhile location to be in, and their investment is there. Mr. Craft remarked that now, they have someone who has come in and decided that he/she would steal some of that out there, and he/she would take some of that equity, and he/she has put this cheaper unit in there, and now their unit is going to be worth more, and their neighbor's housing is going to be less. He noted that everyone in that neighborhood suffered in these people's investment, and the Town suffers in its investments. Mr. Craft stated that as these things go down, everyone goes down with it. He advised that he thinks this is something the Planning Commission needs to consider right away and make sure that whatever these units are called, they do not come into a community like this one. Mr. Craft pointed out that it is very hurtful to all of the people who have invested there.

Mayor Crewe thanked Mr. Craft for his comments. He advised that in fairness, he needs to put forth the other argument. Mayor Crewe stated that he did not know because there have not been reassessments, but the arguments that manufactured homes would cause a decrease in value was not proven out by the tax reassessments over the last several years. Mr. Craft advised that there are so many factors that go into those tax reassessments. Mayor Crewe noted that he agrees, but there is an argument to be made that property values do not automatically go down, and this is what he is stating, but indicated that he did not know that. Mr. Craft remarked that this is cause and effect, and he did not think that this could be proven that it is cause and effect. Mayor Crewe remarked that he agrees, and he did not know how it would be sorted out, but thought in fairness, it ought to be mentioned. Mr. Craft advised that he did not think it is worth mentioning. He stated he did not think Mayor Crewe has enough validity to that statement to make it. Mayor Crewe noted he appreciates Mr. Craft's opinion. Mr. Craft thanked the Council for their time. Mayor Crewe thanked Mr. Craft for attending the meeting and for his patience.

Mr. Stephen Snider was recognized and stated he will be reiterating what has been stated. He advised that the sheet of paper that came with their deed, he assumes, is the covenants that mentions that no mobile homes would be allowed. Mayor Crewe stated he does not know specifically, however, he knows there are some covenants on some lots out there. He noted that if there are restrictive covenants on this particular piece of property, this particular piece of property would be bound by those restrictive covenants. Mr. Snider inquired if this would be a civil matter. Mayor Crewe noted that is correct. Mr. Snider inquired regarding the setback, and noted that there is a section that states that in no case in the R-1 Residential zoning shall the setback be more than 40 feet back, and this is the requirement. He noted that the setback with this home is somewhere in the neighborhood of 70 feet back from the road. Mr. Snider advised that they were also told when they were building their house, and noted he lives at 375 Van Mar Drive on the other side of this mess, that the houses had to be in alignment, and this is something that the Town enforced. He stated this is what they believed up until this, and now they are being told that it is not an enforcement, it is an encouragement. Mr. Snider pointed out that all of the terminology has changed. Town Manager Sutherland explained that this is more complicated than that. Mayor Crewe advised that this piece of property is on a curve if he is looking at the map correctly, which changes the setback line. Town Manager Sutherland noted it is at what point they could achieve the needed setback line. Assistant Town Manager Moore noted that this is a pie shaped lot. Mr. Snider noted that his lot is pie shaped as well. Assistant Town Manager Moore indicated that the setback line has to be at the 90 foot width of that lot, so it has to go back to obtain the 90 feet, and that is the setback line, which happens to be further than the rest of the lots on the front. Mayor Crewe advised that he cannot tell, and remarked he is looking at the plat, but he cannot tell Mr. Snider how far back it is. He noted that they measured at the point that the lot is 90 feet wide, which is not real close to the street, and it is further back than most people's and he thinks this is what Mr. Snider is stating. Mr. Snider explained that basically, they can look from behind their house through the front of his house and behind Mr. Mills' house. Mayor Crewe stated there are two houses in alignment, and one back further, and this is what Mr. Snider is stating. Mr. Snider advised that this house is behind both of the neighbors' houses. Mayor Crewe pointed out that this complies with the Town Zoning Ordinance and the setback lines. Mr. Snider thanked the Council for their time. Town Manager Sutherland remarked that this is a little older, and the lot line distances on the cul-de-sac are now increased. Mayor Crewe inquired if this is a cul-de-sac, and noted he can see the curve, but he does not know if it is on the cul-de-sac. Councilman Jones stated that it is not a cul-de-sac. Mayor Crewe noted that the line on front is a curved line on the plat he is looking at. Mayor Crewe thanked Mr. Snider for his comments.

Mr. Eddie Williams was recognized and stated he would like to thank the Council for listening to his comments. He stated that the property in question today is his. Mr. Williams remarked that he did extensive research in talking with Building Official Massie to make sure his property and his home complied with the Town of Wytheville ordinances. Mr. Williams advised that they checked on several different things, and there were many different factors in the home that they chose, some of which being a physical limitation of himself and others being financial limitations. He noted he did not buy this lot and put this house in there to try to devalue anyone's property or try to anger anyone. Mr. Williams stated what he put it there for, or tried to put it there for, was a residence for himself and his family. He indicated that this is the purpose of it. Mr. Williams advised that right now it is in the construction phase, and during the construction phase, not too many homes look pretty. He remarked that he thinks after everything is done, if the Council rode by this house, they would have trouble determining which one was what. Mr. Williams pointed out that his home conforms to the State Code Building Code, just like a stick built house. He remarked that they have found out there are four other modular homes in that subdivision. Mr. Williams stated that also during the research, nobody has mentioned this, but he has found out that there are actually two subdivisions in that area, one along Van Mar Drive, which is called Birdland, and another along Wytheview Drive, which is called Wytheview. He commented that there are restrictive covenants for Wytheview Subdivision, but according to

even the original developer, Mr. Harold Louthen, the only restrictions for the Birdland Subdivision were listed in the deed in making sure that it complied with R-1 Residential zoning. Mr. Williams remarked that he has talked to Building Official Massie, and they do comply. He indicated that they have followed all the directions they have been given. Mr. Williams reiterated that he is not there trying to make anybody mad, but all he is doing is trying to provide a home for himself and his family. Mr. Williams noted he would hope that the other members who live along that street and along Wytheview would give it a chance and get to know him and his family to find out that, as he believes, they are good people, and, that if they try really hard, they can all get along. He thanked the Council for their time. Mayor Crewe thanked Mr. Williams for attending the meeting and for his comments.

Mayor Crewe inquired if there are others who desired to address the Town Council during Citizens' Period.

Mr. Mark Mills was recognized and stated that regarding the covenants that Mr. Williams alluded to as only being R-1 standards, they are listed on the sheet he has with Mr. Louthen's name on it. He stated this came strictly from his deed, and Mr. Williams has prior knowledge of this. Mr. Mills noted that it states, "The property hereby conveyed is conveyed subject to all easements, conditions, right of way, reservations, restrictions hereto placed thereon by recorded deed of plat especially to the following restriction to wit: (1) No mobile home parks, mobile homes, or trailers are to be located on the property. Mr. Mills remarked that the restrictions go on further to speak of commercial poultry, swine, dirt tracks, recreational vehicles. He noted that the third restriction states, (3) "Any dwelling constructed on the property shall be of good materials in a working like manner, with a heated floor space of at least 1,400 square feet." Mr. Mills stated that he does know that Mr. Williams' home complies with the 1,400 square feet. He indicated that these are the covenants that he knows the Town has to not enforce, but to state that all Mr. Williams had to do was comply with R-1 Residential zoning is not correct. Mayor Crewe advised that what he thinks Mr. Williams was stating is that the 1,400 square feet was the requirement at that time, and noted he thinks the heated floor space of at least 1,400 square feet used to be what the Zoning Ordinance required, if he remembers correctly. He stated that whatever the covenants are is what they are. Mayor Crewe reiterated that whatever the restrictions state is what the restrictions are, and Mr. Mills is correct. He noted he did not do the title on this particular piece of property, and he does not know, but this is what Mr. Williams has and this is what he states is in there, and that is what Mr. Mills is stating is in there, and he does not think the two disagree on that one. Mr. Mills noted that is correct. Mayor Crewe advised that it may have been stated a little differently, but the restrictions are as worded in the deed and the chain of title. Mr. Mills inquired if any of the Council members have seen the property and inquired if they would like to see pictures, and inquired if this is possible. Mayor Crewe answered that the Council would be glad to look at anything Mr. Mills would like to show them. He pointed out that he has not seen the property, and he did not know about this dispute until he arrived at this meeting and saw the memo, but noted he intends to go out there and look at it. Mr. Mills presented pictures to the Council. Mayor Crewe advised that the Council will return the pictures in a moment. Mr. Mills noted that one other point on this particular home is that he thinks it is going to come down to the wording and the legality of the wording and this being a mobile home. He stated that the axles, wheels, and tongue can be placed back on this home, and it can be moved again, even if the perimeter skirting is placed under it, which is not structurally part of the foundation, but it is merely for appearance purposes. Mr. Mills pointed out that the only structural part of this is the steel truss that is non-removable up underneath this home. He stated there are concrete block piers and tie downs that hold the home down to the ground, which is placed on top of a poured concrete footing. Mr. Mills remarked that he knows that they changed the wording, etc., but as Mr. Crowgey stated, it is what it is. Mayor Crewe stated that, obviously, the Town of Wytheville is not the only community in Virginia that has wrestled with this issue, and they have found some other places that have had similar kinds of issues with it. He indicated that maybe what they need to do is talk to a lawyer and do a research to see if there is a court case some place because he thinks this is probably where they are all going to be headed, and he does not think the Town of Wytheville can help. Mayor Crewe advised that the Council will respond and do anything it can to help as a town. He noted they try to give a fair hearing of all the issues so everyone knows where everyone stands, but if it meets the code, the Town cannot do anything about it, and the building permit has to be issued. Mr. Mills advised that he understands.

Mr. John Crowgey was recognized and inquired if other localities had objections to this type of housing. Mayor Crewe noted that the localities did not have objections that the Town has been able to find, if it meets the State Code. Town Manager Sutherland pointed out that this is the issue, and Town staff talked to representatives from Abingdon and Galax in terms of what they do, and it is permitted. He explained that it is permitted by State law. Mayor Crewe noted that it is also a relatively recent State law. Town Manager Sutherland indicated that he thinks there is some opportunity to set a more rigorous standard, but as for the question of whether that structure is permitted in any residential district in Virginia, it is permitted. Mr. Crowgey remarked

that he will tell the Council that the company installing this home is Harper's Mobile Home Moving out of Saltville. Town Attorney Kaase noted that this is in the pictures that the Council just viewed. Mr. Crowgey advised that everyone recognizes it as a mobile home except the Town. Mayor Crewe indicated that it is the building code that really makes the difference.

Mayor Crewe inquired if there are others who wish to address the Town Council during Citizens' Period. He noted he appreciates everyone's patience and courtesy. Mayor Crewe thanked everyone for attending the meeting, and he proceeded with the agenda.

### **RE: OLD BUSINESS**

Under Old Business, Town Manager Sutherland reported the following:

1. The Budget and Finance Committee will meet tomorrow morning, September 11, 2007, and the Public Works Committee will not meet this week.

### **RE: GRAHAM SPECIAL EXCEPTION PERMIT PUBLIC HEARING**

Mayor Crewe explained to Ms. Vicky Petty that the Council has held the public hearing on the Graham special exception permit, but advised that he would be more than happy to give her the opportunity to speak, if she desired. Mayor Crewe noted that the Council has not voted on this matter, and it will be considered later on the agenda.

Ms. Petty stated she missed the public hearing, and she does not know everything about the request. Mayor Crewe noted that the Council will consider this matter later on the agenda, and maybe they can reiterate information about the request. He stated he wanted to give her an opportunity to speak. Ms. Petty advised that she appreciated it.

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

Vice-Mayor King, reporting for the Budget and Finance Committee, reported that when the budget for fiscal year 2007-2008 was adopted by the Council in June, individual capital outlay items were not identified. She stated that all capital outlay appropriations were identified in two line items in the budget, one being a line item of \$677,020 in the General Fund and a line item of \$305,200 in the Water and Sewer Fund. Vice-Mayor King noted that it was the determination of the Council at that time that individual items that were to be purchased from these two appropriations would be considered on an individual basis. She remarked that they have requested department heads to submit a listing of their capital outlay priorities. Vice-Mayor King explained that after reviewing the information submitted by department heads, it is the recommendation of the Budget and Finance Committee that the following items be funded from the available capital outlay funds: (1) under the Department of Maintenance of Streets, the Committee would recommend the appropriation of \$95,000 that can be used either for one knuckleboom trash and brush loading truck or two 3-ton dump trucks; (2) for the Department of Traffic Streets, Signs and Lights, the Committee would recommend the appropriation of \$20,000 to upgrade the traffic control boxes at the intersections of Fourth and Main Streets and Fourth and Monroe Streets; (3) for the Emergency Services Communications Center, the Committee would recommend the appropriation of \$9,000 to replace the generator at the Pine Ridge radio site; (4) for the Treasurer's Office, the Committee would recommend the appropriation of \$25,000 for the replacement of the main frame computer; (5) for the Department of Museums, the Committee would recommend the appropriation of \$12,240.49 for the replacement of carpet in the Heritage Preservation Center; (6) for the Department of Parks and Recreation, the Committee would recommend the appropriation of \$41,035 for operational activities associated with those programs. Vice-Mayor King noted that these operational funds were inadvertently omitted during the budgetary process, though they will be appropriated from the General Fund Capital Outlay line item; (7) from the Water and Wastewater Fund, the Committee would recommend the appropriation of \$81,000, which consists of two emergency projects, one of which is the renovation of a sewage pump station on West Ridge Road and additional expenses incurred in dewatering sludge at the Water Treatment Plant; (8) from the Water and Sewer Fund, the Committee would also recommend the appropriation of \$251,400 for capital projects that are currently underway. Vice-Mayor King explained that one of these projects is the aeration project underway at the Wastewater Treatment Plant with the second project being the coating of basins at the Water Treatment Plant. She noted there are many other identified projects within these requests by the department heads, and the Committee will monitor and recommend appropriations throughout the year simultaneously with monitoring the receipt of revenues. A motion was made by Vice-Mayor King and seconded by Councilman Jones that the Council approve the specified items as expenditures from the capital outlay portion of the budget as follows: (1) under the Department of Maintenance of Streets, the Committee would recommend the appropriation of \$95,000 that can be used either for one knuckleboom trash and brush loading truck or two 3-ton dump trucks; (2) for the Department of Traffic Streets, Signs

and Lights, the Committee would recommend the appropriation of \$20,000 to upgrade the traffic control boxes at the intersections of Fourth and Main Streets and Fourth and Monroe Streets; (3) for the Emergency Services Communications Center, the Committee would recommend the appropriation of \$9,000 to replace the generator at the Pine Ridge radio site; (4) for the Treasurer's Office, the Committee would recommend the appropriation of \$25,000 for the replacement of the main frame computer; (5) for the Department of Museums, the Committee would recommend the appropriation of \$12,240.49 for the replacement of carpet in the Heritage Preservation Center; (6) for the Department of Parks and Recreation, the Committee would recommend the appropriation of \$41,035 for operational activities associated with those programs; (7) from the Water and Wastewater Fund, the Committee would recommend the appropriation of \$81,000, which consists of two emergency projects, one of which is the renovation of a sewage pump station on West Ridge Road and additional expenses incurred in dewatering sludge at the Water Treatment Plant; (8) from the Water and Sewer Fund, the Committee would also recommend the appropriation of \$251,400 for capital projects that are currently underway. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger. Against: None.

Vice-Mayor King also reported that the Town has received a request from the Department of Museums to carry over \$10,524.61 from fiscal year 2006-2007 into the current fiscal year. She explained that a large portion of these funds will be used to build an outdoor learning center for the Homestead Museum and will be used for orientation activities, education programs for school groups, and performances of traditional Appalachian music. Vice-Mayor King noted that they have asked the Treasurer to confirm that there were sufficient funds left from the prior fiscal year to fund this appropriation. She stated the Treasurer has confirmed that there were sufficient funds, and, therefore, it would be the recommendation of the Budget and Finance Committee that the Council authorize the carryover and the appropriation of \$10,524.61 to the Museum Heritage Education Program. A motion was made by Vice-Mayor King and seconded by Councilman Jones that the Council authorize the carryover and the appropriation of \$10,524.61 to the Museum Heritage Education Program. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger. Against: None. A copy of the Budget and Finance Committee report is attached and made part of these minutes.

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

Councilman Weisiger, reporting for the Public Works Committee, reported that the Committee wanted to give the Council and the public notice that the bridge on South Twentieth Street will be closed on September 18 and 19, 2007, for resurfacing of the deck. He noted that the existing decking material is worn, and the bridge decking will be cleaned and resurfaced on the days just noted. Councilman Weisiger remarked that it is anticipated that this work can be completed within two days, but there is the potential that if the Town experiences some problems, the bridge may be closed for slightly more than these two days. He advised that the Town plans to give public notice by way of the media of the closing of this bridge. Councilman Weisiger acknowledged that it will, no doubt, be an inconvenience for the residents in that area of town, but these maintenance activities need to be performed. He stated there is no action required by the Council, but the Committee did want to alert every one of these planned maintenance activities.

Councilman Weisiger also reported that the Committee thought it might be helpful to give the Council an update on the progress of the construction activities of the New River Regional Water Authority. He advised that the Authority has three divisions of work underway with Division I being the construction of the new four million gallon per day water treatment facility. Councilman Weisiger indicated that Judy Construction Company, who is the prime contractor on the water treatment facility, has made remarkable progress since the project began. He noted that at this time, the contractor is approximately 25 percent complete with his work. Councilman Weisiger stated there are numerous concrete tanks, buildings, etc. that are well underway to completion. He commented that it is anticipated that Judy Construction will reach final completion by mid-July 2009. Councilman Weisiger pointed out that this would mean that the plant could produce water for distribution into the system by late 2009 or early 2010. He stated the Division II contractor is responsible for the installation of the raw water intake station, the raw water lines between the river and the new water treatment facility, and, finally, the finished water lines exiting the facility toward the crossing at New River. Councilman Weisiger noted that the Division II contractor is approximately 31 percent complete, and his anticipated completion date is March 20, 2009. He indicated that the third division of the project involves the water line crossing New River. Councilman Weisiger stated this work has not yet begun and will commence later this year. He indicated that when the river crossing is made, the bridge across

New River will be closed for a period of time, and the decision was reached to delay this work as long as possible to eliminate any inconvenience to residents in that area. Councilman Weisiger noted that finally, the Committee would note that the twenty-inch water line that will transport water from the new water treatment facility to Carroll County and to Wythe County and Wytheville was recently bid. He stated that no contract has been awarded on this portion of work yet, and this should be a topic of discussion at the next Authority meeting. A copy of the Public Works Committee report is attached and made part of these minutes.

**RE: SPECIAL EXCEPTION PERMIT - GRAHAM**

Mayor Crewe stated the next agenda item is the issuance of the special exception permit to Mr. Michael B. Graham 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). Mayor Crewe noted that to bring Ms. Vicky Petty up to date on the matter, the Council had several speakers who were not in favor of the recommendation from the Planning Commission, which is to grant the special exception permit with six stipulations, and to two follow up requirements, for a total of eight requirements. He explained that the six restrictions or specifications are: (1) That only professional offices shall be permitted such as attorneys, architects, consulting professional engineers, insurance brokers, investment brokers, accountants, real estate agents or brokers, etc.; (2) No type of retail business shall be permitted; (3) Any alterations to the building, or any new building, shall be residential in character, and be subject to review by the Board of Architectural Review. If new construction is proposed, the configurations of the setbacks shall be the same or similar to those required in the R-2 Residential District and the appearance shall remain residential in character; (4) Signage shall be restricted to one sign less than 9 square feet facing Fourth Street, and one sign less than five square feet to indicate the parking area; (5) The hours of operation for the professional office building shall be from 8:00 a.m. to 7:00 p.m. Monday through Saturday; (6) All parking shall be off-street parking, and parking shall be as far away from the intersection of Fourth Street as possible, and efforts should be made to preserve the large tree. Mayor Crewe explained that these are the six specifications and stipulations. He noted the other two specifications are: (7) The special exception permit shall be granted with the property, and Mayor Crewe noted this means it would be sold to the new owner with the same restrictions in it; and, (8) Failure to comply with these conditions shall be grounds for rescinding this special exception permit. Mayor Crewe noted this rescission could be under Mr. Graham's ownership or some subsequent person's ownership. He advised that having stated all of this, technically, this is the recommendation from the Planning Commission to approve it with those stipulations on it, and inquired if there is a motion. A motion was made by Councilman Jones and seconded by Councilman Weisiger to approve the issuance of the special exception permit to Mr. Michael B. Graham to operate a professional 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) with the following stipulations: (1) That only professional offices shall be permitted such as attorneys, architects, consulting professional engineers, insurance brokers, investment brokers, accountants, real estate agents or brokers, etc.; (2) No type of retail business shall be permitted; (3) Any alterations to the building, or any new building, shall be residential in character, and be subject to review by the Board of Architectural Review. If new construction is proposed, the configurations of the setbacks shall be the same or similar to those required in the R-2 Residential District and the appearance shall remain residential in character; (4) Signage shall be restricted to one sign less than 9 square feet facing Fourth Street, and one sign less than five square feet to indicate the parking area; (5) The hours of operation for the professional office building shall be from 8:00 a.m. to 7:00 p.m. Monday through Saturday; (6) All parking shall be off-street parking, and parking shall be as far away from the intersection of Fourth Street as possible, and efforts should be made to preserve the large tree; (7) The special exception permit shall be granted with the property; (8) Failure to comply with these conditions shall be grounds for rescinding this special exception permit. Mayor Crewe inquired if there is any discussion on the motion. Vice-Mayor King noted that if these eight restrictions will go into a deed or how this will be carried out. Mayor Crewe noted that the Town would record it like a deed. Town Manager Sutherland advised that it would be denoted on the zoning map that there is a special exception permit with that property, but it easily could be lost. Vice-Mayor King stated she was thinking that if Mr. Graham sold the property, how anyone would really know. Councilman Jones advised that with a special exception permit, it is still a requirement of the Town to enforce it. He noted that the Town granted the special exception for the business at the former Pendleton shops, and the Planning Commission will receive a report on it this month that they were complying with the requirements. Mayor Crewe remarked that what he thinks Vice-Mayor King is stating is how any new owner would know that the special exception is with this property. Vice-Mayor King stated that is correct. Mayor Crewe noted the answer to that is it is the requirement of the buyer to know. He stated the way the Town would enforce it is it would be so noted in the Zoning Ordinance. Mayor Crewe indicated that he did not know if the Town has always done it, but

normally the Town requires the special exception permit to be recorded. Town Attorney Kaase stated that as long as the special exception permit is recorded, it could not be a bona fide purchaser for value without notice, and, therefore, it would be enforceable. Mayor Crewe noted that this means that once it is on record, it is notice to the world, and even if the purchaser did not see it, he/she would have been deemed to have seen it. Mayor Crewe inquired if there is any other discussion. Councilman Weisiger remarked that, unfortunately, he feels like it may take a long time, but North Fourth Street is not going to be residential forever. He explained that he thinks it is inevitable that it is going to end up being business and retail probably with the way things are going. Mayor Crewe advised that retail is not permitted on this special exception permit. Councilman Weisiger stated that is correct. Vice-Mayor King noted that one thing that really bothers her about this, and indicated that she understands Mr. Graham's concerns, is the traffic problem there. She indicated that the traffic really bothers her. Mayor Crewe inquired if Vice-Mayor King is concerned about how people are going to get in and out from the off street parking because the parking is required to be off the street. Vice-Mayor King noted that is correct, and advised that if Mr. Graham sells the property, it is not his problem. Mayor Crewe stated that it will still be a Town problem. Vice-Mayor King noted that is correct. Councilman Jones indicated that it is no different than anyone else who is trying to get out of their driveway further up the street. Vice-Mayor King advised that there are a lot of places like this in Wytheville. Mayor Crewe noted that arguably, there would be more traffic coming in and out of a business than it would be from a home, but not much more. He explained that all of this was discussed during the Planning Commission meeting, too. Mayor Crewe inquired if there is any other discussion on the motion. Mr. Graham noted that he did provide a map of the proposed parking area. Mayor Crewe stated the Council received the information that was with the Planning Commission minutes that showed the proposal. He noted that so everyone will be aware, the proposal the Planning Commission received was to tear down the garage and put parking there, and people parking would be coming off of Pine Street. Councilman Weisiger inquired if with the parking, it is possible to turn around and come out forward without having to back into the street. Councilman Jones stated that is correct. Mayor Crewe stated if he understood what the police told him when he arrived at the meeting, there was a wreck at this corner tonight. Mayor Crewe inquired if there is any other discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., William B. Weisiger. Against: None. Mayor Crewe wished Mr. Graham good luck and noted he hopes everything works out for him.

#### **RE: RESCHEDULING OF MEETING**

Mayor Crewe stated the next agenda item is to consider rescheduling the November 12, 2007, Council meeting due to the Veteran's Day holiday. He noted the proposal is to move it to Tuesday, November 13, 2007. He inquired if anyone has any problems with rescheduling the Council meeting from November 12, 2007, to November 13, 2007. It was the consensus of the Town Council to reschedule the November 12, 2007, meeting to Tuesday, November 13, 2007.

#### **RE: ADJOURNMENT**

There being no further business to be discussed, a motion was duly made, seconded, and carried to adjourn the meeting (8:35 p.m.).

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Trenton G. Crewe, Jr., Mayor

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Sharon P. Hackler, MMC, Clerk of Council