

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE TOWN COUNCIL
HELD IN THE COUNCIL CHAMBERS ON MONDAY, JUNE 9, 2003, AT 7:00 P.M.**

Members present: Trenton G. Crewe, Jr., Jacqueline K. King, William B. Weisiger, Charles G. Crockett

Members absent: John W. Jones, Jr.

Others present: Town Manager C. Wayne Sutherland, Jr., Assistant Town Manager Stephen A. Moore, Town Clerk Sharon P. Hackler, Town Attorney Robert P. Kaase, Town Treasurer Michael G. Stephens, Stephanie Porter-Nichols with Wytheville Enterprise, Patrol Sergeant Joel Hash, Joe Sheffey, Sr., Agnes Eades

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 Mayor Crewe 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 May 27, 2003, and the request of Crossroads Shelter for waiver of fee for use of the Elizabeth Brown Memorial Park for their Southwest Best Fest on August 21, 2003. A motion was made by Councilman Weisiger and seconded by Vice-Mayor King to approve the consent agenda consisting of the minutes of the regular meeting of May 27, 2003, and the request of the Crossroads Shelter for waiver of fee for use of the Elizabeth Brown Memorial Park for their Southwest Best Fest on August 21, 2003. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, William B. Weisiger, Charles G. Crockett. Against: None.

RE: PUBLIC HEARING – BUDGET ORDINANCE

Mayor Crewe stated the meeting constituted a public hearing (due notice having been given) to consider Ordinance No. 1158, the Budget Ordinance for fiscal year 2003-04. He inquired if there are persons present who wish to address Council during the public hearing. There being none, he declared the public hearing closed.

RE: CITIZENS' PERIOD

Mayor Crewe stated the next agenda item is Citizens' Period. He inquired if there are persons present who wish to address Council during Citizens' Period. There being none, he proceeded with the agenda.

RE: OLD BUSINESS

Under Old Business, Town Manager Sutherland reported the following:

1. The Town received a communication today from Mr. Dobbins' law firm that represents the VML/VACO APCO Steering Committee, and this is the organization that has been doing the negotiations with AEP with regard to future electric rates. Mr. Dobbins' firm reported today that after they had held a lot of meetings and had a lot of telephone conversations, apparently, they have now agreed on certain contract provisions. The essence of these provisions is that AEP will agree to extend the contract that the Town is currently under, which has certain escalators in it, until June 30, 2007. Apparently, the stipulations that are in the new agreement are very similar to the stipulations that the Town is currently under in the contract that was signed in 2002. If the Council recalls, this is all associated with the deregulation. AEP was going to divest its various components separating the generation from distribution and transmission. The reason AEP wanted this separation was that by selling these, they would come from under State Corporation Commission regulations and would only be under Federal regulations. The implications of this is that AEP can sell their electricity for more money. Apparently, this divesting venture is not going through as quickly as AEP had anticipated, and there was a paragraph in the communication today that stated, "If AEP chose not to divest..." Therefore, this may not be shaping up as well as AEP had first thought. The good news

is that, fortunately, the Town is going to be protected by the State Corporation Commission and their tariffs, assuming this goes through, until 2007.

RE: BUDGET AND FINANCE COMMITTEE REPORT

Vice-Mayor King, reporting for the Budget and Finance Committee, stated that several weeks ago, the Committee reported on concerns that had been raised with persons soliciting funds along public streets. She advised that at that time, the Committee reported that the Town had no regulations that would preclude these activities, but did note that the Committee was going to seek information from other communities in Virginia. Vice-Mayor King noted that the Virginia Municipal League has provided the Town with several model ordinances from communities around the state. She remarked that VML also provided the Town with an opinion issued by former Attorney General James Gilmore. Vice-Mayor King advised that in former Attorney General James Gilmore's opinion, it appears that there is no clear statutory authority to impose standards on solicitations in public streets with the exception of several communities who the General Assembly specifically gave those powers. She explained, however, that former Attorney General Gilmore did note that there were Commonwealth Transportation Board regulations that were applicable to control such activities on the basis of driver and pedestrian safety. Vice-Mayor King advised that the Committee is not ready to make any recommendations on any type of regulations, and, again, wants to be clear on all implications associated with the adoption of such regulations. She stated the Committee would note, however, that even though the Town does not have regulations to prohibit solicitations on public streets, the Committee continues to think that there may be certain safety issues associated with these activities and does not endorse or encourage these types of activities. Vice-Mayor King noted that the Committee will have additional information for the Council's consideration in the near future. Councilman Crockett advised that he has a question on this matter and advised that Mayor Crewe or Town Attorney Kaase is probably more knowledgeable on this matter. He inquired that for these communities that were given authority by the General Assembly, if the Council were to pass some type of ordinance, if this would not, based on his interpretation of what former Attorney General James Gilmore stated, require General Assembly action. Mayor Crewe indicated that his answer is it depends on what the Council's ordinance does. He noted he will defer to Town Attorney Kaase, but his opinion is the Council can regulate the Town's streets, without General Assembly special authorization, along the lines of safety, public convenience, and not impeding traffic flows, etc. Mayor Crewe noted when the Council would get much beyond these regulations, such as where the solicitors stand on the rights-of-way, the Council could run afoul of the Attorney General's opinion that states unless there is a specific grant, and being that Virginia is a Dillon Rule state and it is not in the Town's Charter, the Council could not do it. Town Attorney Kaase remarked that this is what he wondered about, and possibly Vice-Mayor King or Town Manager Sutherland knows. He noted that it sounded like a Charter provision and inquired if this is what is being alluded to here. Town Manager Sutherland advised that it is not referring to a Charter provision. Mayor Crewe explained that it is special authorizing legislation by statute that gives certain communities, not by name necessarily, this authority. Town Attorney Kaase explained that he is not familiar with this, but it occurs to him that if there are problems in general, the Town is still going to have problems specifically. He indicated that he did not understand the report from the standpoint of passing this under any general prohibitions. Town Attorney Kaase stated he will be glad to look into this. Town Manager Sutherland advised that Town staff will send Town Attorney Kaase a copy of this information. He explained if he understands what the former Attorney General was telling the Town of Hopewell, the Town of Hopewell wanted to model one of the ordinances that came from a community that had this authority. Town Manager Sutherland noted that generally what the Attorney General told the Town of Hopewell is they cannot adopt an ordinance like that, and if they wanted to do anything, they would have to base it on the statutory provision or the authority that has been given to VDOT for the safety of highways, and write it in this fashion or get special privileges from the General Assembly. Mayor Crewe stated that Town Manager Sutherland's explanation is an accurate reading of what the Attorney General's opinion is in the case that is cited here. He remarked it is a thin line that the Council could take, but it could be done, and it depends on which side of the "line" that the Council takes is basically the way he reads this. Mayor Crewe noted there are certain things that the Council could do. He noted, for example, the analogy he would make is that the Council could put up speed limit signs and regulate the rate of traffic and the speed limit on any road in Town. Mayor Crewe stated that this would not require any special legislation. He continued that to say whether a person can or cannot step into the flow of traffic to solicit donations, he would liken that to anything in the general statutes of not impeding the traffic flow and the safety of actually being on the driving portion of the roadway. Mayor Crewe indicated that he thinks the Council can regulate this, but the question is how far can the Town regulate a person being off of the pavement without special Charter provisions or statutory provisions. He noted he thinks this is what the former Attorney General was trying to state in his opinion, as well as who can and cannot do this. Mayor Crewe pointed out that, obviously, certain localities have received special enabling legislation that states they

shall be able to do this. He noted that at the present, the Town of Wytheville is not among those localities with this special enabling legislation. Councilman Crockett noted he did not want to belabor the point, but it makes him wonder if this is the case, if this is not an issue at the State level as far as them making it applicable to all communities or all cities and towns in the state. Mayor Crewe noted he would think this certainly could be a State issue. Councilman Crockett indicated that it seems to him that if the Town is looking at something like this and if the Town pursues this further, the Council may need to look at requesting the State to do something as opposed to the Town doing something. Mayor Crewe advised that this is one avenue the Council could consider.

Vice-Mayor King also reported that the site grading plans for the new Community Center have been submitted to Rural Development for their review. She indicated that these site plans include excavation of the land and the installation of other site related items such as storm water detention basins, etc. Vice-Mayor King explained that Rural Development reviewed the plan and had several small comments that are being corrected by the engineers. She noted that most of Rural Development's comments were merely technical in nature in terms of certain wording in the contract documents. Vice-Mayor King indicated that the Committee assumes that the Town will see final approval on this set of plans from Rural Development in the very near future. She noted that once this approval is received, the Town will be in a position to bid the site work. Vice-Mayor King indicated that reasonably, this portion of the construction package could go to bid in the next couple of weeks. She remarked that while the site excavation and other work are ongoing, the architects will be working to finalize the building plans. Vice-Mayor King explained that thereafter, the Town will be in a position to bid the building. She noted that the Council may want to give some thought to groundbreaking activities, etc. for this new project. Vice-Mayor King remarked that she has some thoughts as to these activities. Mayor Crewe indicated that he hopes the Town can get the plans finalized and be ready for this to be bid soon. A copy of the Budget and Finance Committee report is attached and made part of these minutes. ([Attachment](#)).

RE: PUBLIC WORKS COMMITTEE REPORT

Councilman Weisiger, reporting for the Public Works Committee, stated that at the last meeting of Council, the Committee presented a draft policy concerning issuance of permits for driveway entrances onto public streets. He noted that as the Council may recall, the purpose of this program is to assure that new entrances are installed in a fashion that works properly with the Town's drainage system. Councilman Weisiger indicated that over the last couple of weeks, each Committee has had the opportunity to review this program, and, thus far, there have not been any suggested changes. He stated the Committee would remind the Council that a property owner will make a \$100 deposit for the entrance permit, and this money will be refunded to the property owner once the entrance has been properly installed. Councilman Weisiger explained that, therefore, the permit is issued at no cost to the property owner. He noted that as such, it would be the recommendation of the Committee that the attached driveway entrance permit program be adopted and that it become effective immediately. A motion was made by Councilman Weisiger and seconded by Councilman Crockett that the Council adopt the driveway entrance permit program and that it become effective immediately. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, William B. Weisiger, Charles G. Crockett. Against: None. Mayor Crewe advised that the driveway entrance permit program will become effective immediately.

Councilman Weisiger also reported that over the past several months, the Committee has studied the parking situation on Sixth Street between Main and Monroe Streets adjacent to the Post Office. He noted that as everyone is aware, parking is available along Sixth Street, and there are no spaces available in the drive through lane. Councilman Weisiger advised that in addition, there are no handicap spaces available at this entrance to the Post Office. He indicated that often, the travel lane through the Post Office is blocked where persons have illegally parked to go into the Post Office. Councilman Weisiger advised that after studying the situation, the Committee developed a design that they think could vastly improve the parking situation at the Post Office. He explained that in the Committee's scenario, the sidewalk and grassed area adjacent to Sixth Street would be removed, and diagonal parking spaces could be created adjacent to the sidewalk at the Sixth Street entrance. Councilman Weisiger stated that the Committee submitted these plans to the Post Office for their review, and they have advised that they concur that this would be an improvement, but they did not have any monies available to make such alterations. He noted that the Committee sent its information and the Post Office's response to Congressman Boucher seeking his assistance in getting these improvements performed. Councilman Weisiger advised that the Committee has not had any response as of yet, but will report to the Council any progress they make on getting these improvements implemented. Mayor Crewe noted the Council looks forward to receiving more information on

this matter, and advised he thinks these improvements would make a big difference at the Post Office. A copy of the Public Works Committee report is attached and made a part of these minutes. ([Attachment](#)).

RE: ORDINANCE NO. 1158 – BUDGET ORDINANCE

Mayor Crewe presented Ordinance No. 1158, the Budget Ordinance for Fiscal Year 2003-04, on second reading. He noted that the final reading of the Budget Ordinance is scheduled for the June 23 meeting. A motion was made by Vice-Mayor King, which requires no second coming from a Committee, to adopt Ordinance No. 1158, the Budget Ordinance for Fiscal Year 2003-04 on second, but not final reading. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting results:

FOR: Trenton G. Crewe, Jr., Jacqueline K. King, William B. Weisiger

AGAINST: Charles G. Crockett

ABSTENTIONS: None

Ordinance No. 1158 passed on second, but not final, reading.

Mayor Crewe inquired if there is anything else to be brought before the Council. Vice-Mayor King indicated that she would like to comment regarding the budget. She noted that for the past several months, both of the Council Committees and other members of Council have reviewed a variety of information in developing the Town's budget for the next fiscal year. Vice-Mayor King stated the information they reviewed included financial data comparing revenues to expenditures. She noted the Council must also consider the requests of the various department heads for equipment and activities they feel are needed. Vice-Mayor King stated there are more requests than funds that are available. She indicated that generally, all of the requests from the department heads are for appropriations that will improve the Town's services to the Town citizens. Vice-Mayor King commented that she mentions this only because there will always be unfunded needs in the Town's budget. She stated that a few weeks ago, Councilman Crockett suggested in remarks made at a budget work session that the Town had not met many of its needs. Vice-Mayor King advised that she agrees there are many projects she would like to see performed, but noted she thinks the Council acts soundly in utilizing its available funds in the best interest of the Town citizens. She indicated that during her time serving on the Council, as well as other Council members, she thinks the Council has made tremendous strides in bringing improvements to the community. Vice-Mayor King stated she truly believes that the Town provides a higher level of service at a lower cost to the Town citizens than any community around the Town of Wytheville. She noted she feels that the Council does a good job in providing essential services such as streets, water, sewer, and fire protection, but, also, provides programs such as the recreation programs and museum programs that make the Town a better-rounded community. Vice-Mayor King indicated that with regard to the current deficit in the water and sewer fund, she would coin the old phrase that "you have to spend money to make money." She noted that, certainly, this is the situation that the Town is currently facing. Vice-Mayor King explained that the Town has spent millions of dollars improving the Town's water and sewer system over the past few years. She noted that much of this money has been spent in an effort to have the utilities available for the recruitment of new business and industry. Vice-Mayor King advised that she believes the Council's efforts have, and will continue to, pay off, and the water and sewer system will overcome the current deficit situation. She remarked that the Council must remember that utilities that were installed as a result of annexation, the extension of a new waterline to Progress Park, and the new tank near the Virginia Department of Transportation on Pine Ridge that serves the Fairview Industrial Park were all expensive projects but were installed in an effort to look to the future. Vice-Mayor King indicated that she does agree with Councilman Crockett that the Council needs to monitor its expenditures and may ultimately face some increase in water and sewer billings, but advised she does not believe that this time has yet arrived. Mayor Crewe thanked Vice-Mayor King for her comments.

RE: ADJOURNMENT

Mayor Crewe inquired if there is any further business to be discussed. There being none, a motion was duly made, seconded, and carried to adjourn the meeting (7:20 p.m.).

Trenton G. Crewe, Jr., Mayor

Sharon P. Hackler, CMC, Clerk of Council

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BUDGET AND FINANCE COMMITTEE REPORT

JUNE 9, 2003

1. Several weeks ago, our Committee reported on concerns that had been raised with persons soliciting funds along public streets. At that time, we reported that the Town had no regulations that would preclude these activities, but did note that we were going to seek information from other communities in Virginia. The Virginia Municipal League has provided us with several model ordinances from communities around the state. They also provided us with an opinion issued by former Attorney General James Gilmore. In his opinion, it appears that there is no clear statutory authority to impose standards on solicitations in public streets with exception of several communities who the General Assembly specifically gave those powers. However, he did note that there were Commonwealth Transportation Board regulations that were applicable to control such activities on the basis of driver and pedestrian safety.

We are not ready to make any recommendations on any type of regulations, and, again, want to be clear on all implications associated with the adoption of such regulations. We would note, however, that even though we do not have regulations to prohibit solicitations on public streets, we continue to think that there may be certain safety issues associated with these activities and do not endorse or encourage these types of activities. We will have additional information for the

Council's consideration in the near future.

2. The site grading plans for the new Community Center have been submitted to Rural Development for their review. These site plans include excavation of the land and the installation of other site related items such as storm water detention basins, etc. Rural Development reviewed the plans and had several small comments that are being corrected by the engineers. Most of Rural Development's comments were merely technical in nature in terms of certain wording in the contract documents. We assume that we will see final approval on this set of plans from Rural Development in the very near future. Once that approval is received, we will be in a position to bid the site work. Reasonably, this portion of the construction package could go to bid in the next couple of weeks. While the site excavation and other work are ongoing, the architects will be working to finalize the building plans. Thereafter, we will be in a position to bid the building. The Council may want to give some thought to groundbreaking activities, etc. for this new project.

Jacqueline K. King

John W. Jones, Jr.

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PUBLIC WORKS COMMITTEE REPORT

JUNE 9, 2003

1. At the last meeting of Council, we presented a draft policy concerning issuance of permits for driveway entrances onto public streets. As you may recall, the purpose of this program is to assure that new entrances are installed in a fashion that works properly with the Town's drainage system. Over the last couple of weeks, each Committee has had the opportunity to review this program, and, thus far, there have not been any suggested changes. We would remind you that a property owner will make a \$100 deposit for the entrance permit, and this money will be refunded to the property owner once the entrance has been properly installed. Therefore, the permit is issued at no cost to the property owner. As such, it would be the recommendation of our Committee that the attached driveway entrance permit program be adopted and that it become effective immediately.
2. Over the past several months, our Committee has studied the parking situation on Sixth Street between Main and Monroe Streets adjacent to the Post Office. As everyone is aware, parking is available along Sixth Street, and there are no spaces available in the drive through lane. In addition, there are no handicap spaces available at this entrance to the Post Office. Often, the travel lane through the Post Office is blocked where persons have illegally parked to go into the Post Office. After studying the situation, we developed a design that we think could vastly improve the parking situation at the Post Office. In our scenario, the sidewalk and

grassed area adjacent to Sixth Street would be removed, and diagonal parking spaces could be created adjacent to the sidewalk at the Sixth Street entrance. We submitted these plans to the Post Office for their review, and they have advised that they concur that this would be an improvement, but they did not have any monies available to make such alterations. We sent our information and the Post Office's response to Congressman Boucher seeking his assistance in getting these improvements performed. We have not had any response as of yet, but will report to the Council any progress we make on getting these improvements implemented.

William B. Weisiger

Charles G. Crockett

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