

AGENDA
Wytheville Town Council
Monday, July 26, 2004
7:00 P.M.
Wytheville Municipal Building
150 East Monroe Street
Wytheville, Virginia 24382

- A. **CALL TO ORDER**—VICE-MAYOR JACQUELINE K. KING
- B. **ESTABLISHMENT OF QUORUM**— VICE-MAYOR JACQUELINE K. KING
- C. **INVOCATION**—COUNCILMAN WILLIAM B. WEISIGER
- D. **PLEDGE OF ALLEGIANCE**—COUNCILMAN H. JUDSON LAMBERT
- E. **CONSENT AGENDA**
 - 1. Minutes of the regular meeting of July 12, 2004
 - 2. Request of the Crossroads Shelter, Inc. for waiver of fees for use of the Elizabeth Brown Memorial Park on August 19, 2004, for their annual picnic
- F. **CITIZENS' PERIOD**
- G. **OLD BUSINESS**—TOWN MANAGER C. WAYNE SUTHERLAND, JR.
- H. **COMMITTEE REPORTS**
 - 1. Budget and Finance
 - a. Ordinance amending cigarette tax discount rate
 - b. Guide signs for the Visitor's Center
 - 2. Public Works
 - a. Inquiry from Loretto Homeowners' Association
 - b. Route of the annual Fire Prevention Parade
- I. **ORDINANCES/RESOLUTIONS**
 - 1. Ordinance No. 1175, an ordinance amending and reenacting Chapter 14, Taxation, Article IV. Cigarette Tax, Section 14-53, Preparation, Sale, etc., of Stamps; Duties of Treasurer Generally, of the Code of the Town of Wytheville, Virginia, on first reading

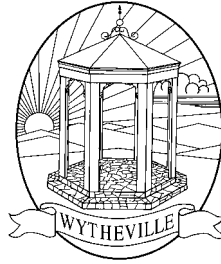
J. OTHER BUSINESS

1. A-95 Review of the Smyth-Wythe Airport Commission for funding to construct the eastside apron and for an update of the Airport Layout Plan
2. 2003-2004 Annual Report of the Wytheville Planning Commission

K. ADJOURNMENT

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Meeting Date:	Monday, July 26, 2004
Item Name:	Consent Agenda
Item Number:	E-2
Subject:	Waiver of Fees—Crossroads Shelter

SUMMARY:

Enclosed is a request of Crossroads Shelter, Inc. for waiver of fee for use of the Elizabeth Brown Memorial Park for their Annual Best Fest on August 19, 2004. The Shelter conforms to the criteria for waiver of fee, and Recreation Director Showalter has, likewise, approved the request.

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Town of Wytheville
Department of Parks and Recreation

Request for Waiver of Fees

Name of Organization: Crossroads Shelter, Inc. Non-Profit Profit

Date of Activity: August 19, 2004 Tax-exempt No: 54-1511551

Purpose of Activity: Annual Best Fest

<u>Request of Area</u>	<u>Hours</u>	<u>Use Fee</u>	<u>Additional Information</u>
Gym	_____	_____	_____
Bingo Room	_____	_____	_____
Room	_____	_____	_____
Withers Park	_____	_____	_____
Elizabeth Park	<u>10 hrs 12noon-10pm</u>	<u>\$82</u>	<u>security dep \$225</u>

Number of Persons in Attendance: 300-400

Requirements

- The activity provides a direct recreational, educational or entertainment value to the participants.
- Alcoholic beverages will not be sold, served, or consumed.
- The activity was scheduled through the Department of Recreation at least one month in advance of the date of the event.
- Group requesting waiver of fees is a public agency, or group incorporated by the Commonwealth of Virginia as non-profit organization.
- Proceeds raised will be donated to: Crossroads Shelter, Inc.
(The generation of funds for a charitable or worthy cause shall not, of itself, be deemed as a reason for waiver of Center or Park use fees).

Organization Representative: Lisa Meredith

Address: 240 Calhoun Street

City/State: Wytheville, VA Zip Code: 24382

Day Phone: 716 228 9270 Night Phone: 716 228 9270

Signature: Lisa Meredith Date: July 1, 2004

Approval

Director of Recreation: [Signature] Date: 7/6/04

Comments: _____

Approved By: _____ Date: _____

Comments: _____

Town of Wytheville 
Parks & Recreation Department

250 S Fourth St
 Wytheville, VA 24382
 Phone: 276-223-3378
 Fax: 276-223-3364

Facility Use Agreement

Representative Name: Lisa Meredith
 Organization Name: Crossroads Shelter, Inc.
 Address: 240 Calhoun Street
 City: Wytheville State: VA ZIP: 24382
 Day Phone: 276 228 9270 Night Phone: 276 228 9270
 Fax: 276 228 9045 E-Mail: info@crossroads-shelter.org

Activity Date: August 19, 2004
 Area Requested: ERP
 Purpose of Activity: Best Fest
 Classification: NP

Activity Details

Persons: 300-400 TIME IN: 12 noon TIME OUT: 10pm
 Activity Time: _____ TOTAL HOURS: 10
 Tables: 40-50 Chairs: _____ Easel: _____
 Coffee Urn: _____ Storage: _____ PA: _____
 Caterer's Name: _____ Arrival: _____
 Alcohol Use Officer: _____ Time: _____

I (We) understand that permission for use is granted on condition that all rules and regulations pertaining to the use shall be followed and understand that permission for use may be revoked at any time for failure to do so. Upon request I have read the facility policies and agree to abide by them. The Town of Wytheville Parks and Recreation Department reserves the right to cancel or change facility rentals as needed.

This agreement is subject to the details, terms, conditions and policies of the facility.

Representative's Signature: Lisa Meredith

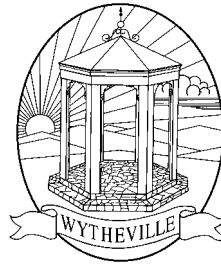
DATE: July 1, 2004

Staff Signature: [Signature]

DATE: 7-1-04

Fees

___ Paid Set Up: _____ (staff)
 ___ Paid Clean Up: _____ (staff)
 Room/Area Rental Fees: \$ 82
 Kitchen: \$ _____
 Security Deposit: \$ 225
 P.A. Rental: \$ _____
 Set Up Fee: \$ _____
 Police Officer Fees: \$ _____
 Other: \$ _____
TOTAL: \$ _____
Total Paid: \$ _____
 Date: _____ Rec. No. _____
 ___ Check ___ Cash
BALANCE: \$ _____ **DUE BY:** _____
 Balance Paid: \$ _____ Date: _____
 Rec. No. _____ ___ Check ___ Cash



Meeting Date:	Monday, July 26, 2004
Item Name:	Committee Reports
Item Number:	H-1
Subject:	Budget and Finance Committee Report

SUMMARY:

The Budget and Finance Committee will report on the following matters:

- a. Ordinance amending cigarette tax discount rate
- b. Guide signs for Visitor's Center

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BUDGET AND FINANCE COMMITTEE REPORT

JULY 26, 2004

1. Later this evening, the Council will consider an ordinance that will amend the Town's Code regarding the taxation of cigarettes. Currently, the Town Code provides that in the sale of cigarette stamps to a local dealer or vendor, the Treasurer shall allow a discount of six one-thousandths of a cent per stamp of the face value of the stamp to cover the cost incurred by the dealer in affixing the stamps to the packages of cigarettes. We recently had an inquiry from a couple of dealers requesting the Town to increase the discount to a higher level more approximating expenses incurred in affixing the stamps. We surveyed the surrounding communities and found that the Town of Wytheville and the Town of Blacksburg have the lowest discounts of all surrounding governments. The discounts of the other local governments vary significantly, but we feel that a discount of three percent would be equitable to the dealers. Later this evening, when the ordinance to amend this section of Town Code is considered, it would be the recommendation of the Budget and Finance Committee that the rules be suspended and that the ordinance be adopted on first and final reading and become effective August 1, 2004.
2. Work is nearing completion on the new Regional Visitor's Center, which is located on North Tazewell Street. The new Visitor's Center is a collaborative effort between the Town of Wytheville, the United States Forest Service, and the Blue Ridge Travel Association. Later this fall, we will have a grand opening and invite the community to view this new, exciting project. As a topic related to the opening of the Visitor's

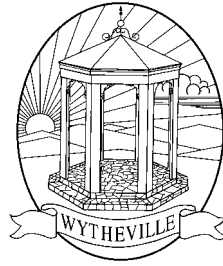
Center, we have been working with the Virginia Department of Transportation to put the appropriate direction signs along the interstate. We and the Department of Transportation have agreed on where the signs will be located and the wording that will direct tourists to the Visitor's Center. The Blue Ridge Travel Association has agreed to pay the expenses associated with the erection of these directional signs. The cost estimated by the Virginia Department of Transportation for making and installing these signs is approximately \$4,600. VDOT will invoice the Town of Wytheville the cost of the signs, and, subsequently, we will be reimbursed by the Blue Ridge Travel Association. We mention this because the outlay of \$4,600 will necessarily come from the line item within the Public Works Department's budget for signs. This expense was not appropriated, and reimbursement from the Travel Association should be applied to the line item for signs within the Public Works Department budget.

Jacqueline K. King

John W. Jones, Jr.

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Meeting Date:	Monday, July 26, 2004
Item Name:	Committee Reports
Item Number:	H-2
Subject:	Public Works Committee Report

SUMMARY:

The Public Works Committee will report on the following matters:

- a. Inquiry from Loretto Homeowners' Association
- b. Route of annual Fire Prevention Parade

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PUBLIC WORKS COMMITTEE REPORT

JULY 26, 2004

1. Recently, we received an inquiry from the Loretto Homeowners' Association seeking the installation of three-way stop signs at several locations within the subdivision. According to representatives from the Homeowners' Association, there is considerable speeding on the streets within the subdivision, and residents within that neighborhood would like measures taken that will slow traffic down. The Homeowners' Association is seeking installation of three-way stop signs at four locations within the subdivision. The locations for the proposed three-way stop signs are as follows: 1) Seventeenth Street and Loretto Drive, 2) Stuart Circle and Loretto Drive, 3) Lee Circle and Loretto Drive, and 4) at the first intersection on Loretto Drive north of Peppers Ferry Road where Loretto Drive begins its circular loop. The Homeowners' Association has noted that they will pay for signposts, etc., as may be needed for installation.

Our Committee has reviewed this request and agrees that the signs will, no doubt, slow traffic within the neighborhood. Additionally, the only real traffic that will be impacted by the installation of these stop signs is that of the residents within the Loretto neighborhood. Unless the Council directs otherwise, we will work with the Homeowners' Association and the Town's Public Works Department to have these stop signs installed.

2. Each year, the Wytheville Volunteer Fire Department has a parade to increase

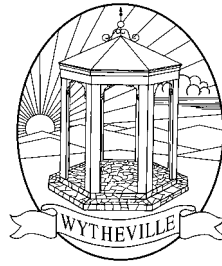
awareness of Fire Prevention Week. The parade consists of a large number of public safety vehicles such as fire trucks, ambulances, and police cars traversing through town. In prior years, the parade has followed the route on East Main Street from the K-Mart Shopping Plaza to Fourth Street and then to the Elizabeth Brown Park where a picnic is held. This year, the after parade dinner will be held at Spiller School, and the Volunteer Fire Department has requested that the parade route be revised. The requested route for this year is to proceed south on Fourth Street from the Lowe's Home Center parking lot to Main Street, and then along Main Street to First Street, where they will enter the Spiller School property. We do not see any problems associated with this change of route, and it would be the recommendation of the Public Works Committee that the revised parade route be approved.

William B. Weisiger

H. Judson Lambert

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Meeting Date:	Monday, July 26, 2004
Item Name:	Ordinances/Resolutions
Item Number:	I-1
Subject:	Ordinance No. 1175

SUMMARY:

As recommended by the Budget and Finance Committee, enclosed is Ordinance No. 1175 which amends the Town Code regarding providing a 3% discount to vendors who affix stamps to packages of cigarettes. If Council concurs, we would recommend that the rules be suspended and the ordinance be adopted on first and final reading.

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ORDINANCE NO. 1175

At a regular meeting of the Town Council of the Town of Wytheville, Virginia, held in the Council Chambers on the 26th day of July 2004, at 7:00 P.M.

Present: Jacqueline K. King, John W. Jones, Jr., William B. Weisiger,
H. Judson Lambert

Absent: Trenton G. Crewe, Jr.

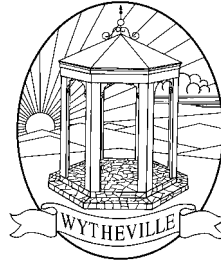
**AN ORDINANCE AMENDING AND REENACTING CHAPTER 14, TAXATION,
ARTICLE IV. CIGARETTE TAX, SECTION 14-53, PREPARATION, SALE,
ETC., OF STAMPS; DUTIES OF TREASURER GENERALLY,
OF THE CODE OF THE TOWN OF WYTHEVILLE, VIRGINIA**

BE IT ORDAINED by the Town Council of the Town of Wytheville, Virginia, that Chapter 14, Taxation, Article IV. Cigarette Tax, Section 14-53, Preparation, Sale, etc., of Stamps; Duties of Treasurer Generally, of the Code of the Town of Wytheville, Virginia, be amended and reenacted as follows:

ARTICLE IV. CIGARETTE TAX

Section 14-53. Preparation, sale, etc., of stamps; duties of treasurer generally.

- (b) In the sale of such stamps to a local dealer or other agent, the treasurer shall allow a discount of three (3) percent of the denominational or face value of the stamps to cover the costs incurred in affixing the stamps to packages of cigarettes.



Meeting Date:	Monday, July 26, 2004
Item Name:	Other Business
Item Number:	J-1
Subject:	A-95 Review

SUMMARY:

Enclosed is an A-95 Review of the Smyth-Wythe Airport Commission for funding to construct the eastside apron and for an update of the airport layout plan. Funding for the project is \$626,748 of federal funds, \$19,792 of state funds, and the local share is \$13,196, for a total project cost of \$659,736. If Council concurs, we would recommend giving a favorable review to the project.

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MOUNT ROGERS PDC 1021 TERRACE DRIVE MARION, VIRGINIA 24354

TO:

Jacqueline King
1310 West Lee Highway
Wytheville, VA 24382

FROM:

Kim E. Hummel
Transportation Planner

DATE:

July 13, 2004

RE:

REQUEST FOR COMMENTS

APPLICANT:

Smyth-Wythe Airport Commission

PROJECT:

This is a pre-application to the Virginia Department of Aviation for funding to construct the Eastside Apron and for an update of the Airport Layout Plan. Federal share is \$626,748, state share is \$19,792 and local share is \$13,196. Control No. 05-R-017-06

A copy of the notification of intent to apply for federal and/or state aid for this project is attached. If you need additional information, please call us at (276) 783-5103. Please return your comments to MRPDC no later than **July 28, 2004**. For your convenience, comments may also be returned via email to: khummel@mrpdc.org.

We invite your comments on this application. Check the appropriate box(es). If you need additional space for comment, please use the reverse side of this form. After making your comment, please sign and date below in the space provided.

I (WE) DO NOT WISH TO COMMENT.

I (WE) REQUEST A CONFERENCE WITH THE APPLICANT.

THIS PROJECT IS NOT IN CONFLICT WITH EXISTING PLANS OR PROGRAMS.

I (WE) RECOMMEND FAVORABLE REVIEW.

PROJECT NEEDS AN ENVIRONMENTAL IMPACT STATEMENT.

I (WE) DO NOT RECOMMEND FAVORABLE REVIEW BECAUSE THIS PROJECT:

DUPLICATES AN EXISTING PROGRAM.

CONFLICTS WITH EXISTING PLANS OR PROGRAMS.

MAY HARM THE ENVIRONMENT OR HISTORICAL FEATURES.

OTHER (SPECIFY) _____

Signature

Date

Robert S. Dix
Chairman
SMYTH COUNTY-MARION

F. Joseph Copenhaver, Jr.
Secretary/Treasurer
SMYTH COUNTY

Larry R. Blevins
MARION



Smyth Wythe Airport Commission

OPERATING

Mountain Empire Airport

P.O. Box 885 • MARION, VA 24354-0885
PHONE (276) 781-2240 • FAX (276) 781-2248

June 21, 2004

Michael G. Grady, Jr.
Vice-Chairman
WYTHEVILLE

Franklin P. Slavin, Jr.
WYTHE COUNTY

Fred W. Cox
WYTHEVILLE

Mr. Gerald Jackson
Virginia Department of Aviation
5702 Gulfstream Road
Richmond, VA 23250

RE: DOAV Preapplication/ACIP
Mountain Empire Airport
Wytheville, Virginia

Dear Mr. Jackson,

Please find enclosed the original and one (1) copy of the Virginia Department of Aviation Preapplication/Airport Capital Improvement Plan (ACIP) for FY 2005-2010 for proposed improvements at Mountain Empire Airport. The ACIP package is for review at the August Board Meeting.

Your continued support of the Mountain Empire Airport is appreciated and if you should have any questions or desire any additional information, please do not hesitate to call.

Sincerely,

Robert S. Dix
Chairman

Enclosure

cc: Emmitt F. Yeary, Virginia Aviation Board w/encl
✓ Thomas Taylor, Mt. Rogers Planning District Commission w/encl
Kyle Allison, FAA/WADO w/encl
Delta Airport Consultants, Inc. w/encl

**PROJECT NARRATIVES
MOUNTAIN EMPIRE AIRPORT**

FY 2005

1. CONSTRUCT EASTSIDE APRON

This development would include the construction of approximately 13,840 SY of aircraft apron between the existing apron and the future Terminal Building. The eastside apron will provide additional aircraft parking as well as apron space in front of the future Terminal Building. The funding breakout illustrated is an increase to an existing TA to match construction funding based on bids.

2. ALP UPDATE

The Airport Layout Plan will be updated to reflect the overall general plan of development for the Airport. It will illustrate the existing airfield facilities, as well as future airfield improvements. It will include the staging of various developments, as required. An examination of the Airport's need and ability to accommodate larger aircraft will also be conducted.

6-YEAR AIRPORT CAPITAL IMPROVEMENT, MAINTENANCE, AND F&E PROGRAM REAPPLICATION

This form or format should be used to submit annual 6-Year ACIP's & their updates

MOUNTAIN EMPIRE

AIRPORT NAME

ROBERT S. DIX

SUBMITTED BY

SMYTH-WYTHE AIRPORT COMMISSION

SPONSOR NAME

CHAIRMAN

TITLE

P.O. BOX 885

ADDRESS

DATE

MARION, VIRGINIA 24354

CITY, STATE, ZIP

(276) 783-2000

PHONE NUMBER

I hereby certify that the Airport is free and clear of obstructions to navigable airspace in accordance with FAR Part 77 and VAR, Section 24-VAC 5-20-140:

SIGNATURE

PROJECT DESCRIPTION	TOTAL COST	FEDERAL FUNDS	STATE FUNDS	LOCAL FUNDS	REMARKS
YEAR 1 (CURRENT YEAR - FY 2005)					
CONSTRUCT EASTSIDE APRON	\$ 259,736.00	\$ 246,748.00	\$ 7,792.00	\$ 5,196.00	Increase to existing TA match construction funding based on bids.
ALP UPDATE	\$ 400,000.00	\$ 380,000.00	\$ 12,000.00	\$ 8,000.00	
YEAR 1 - GRAND TOTAL	\$ 659,736.00	\$ 626,748.00	\$ 19,792.00	\$ 13,196.00	

MOUNTAIN EMPIRE AIRPORT PREAPPLICATION SKETCH

AUGUST 2004
1" = 600'

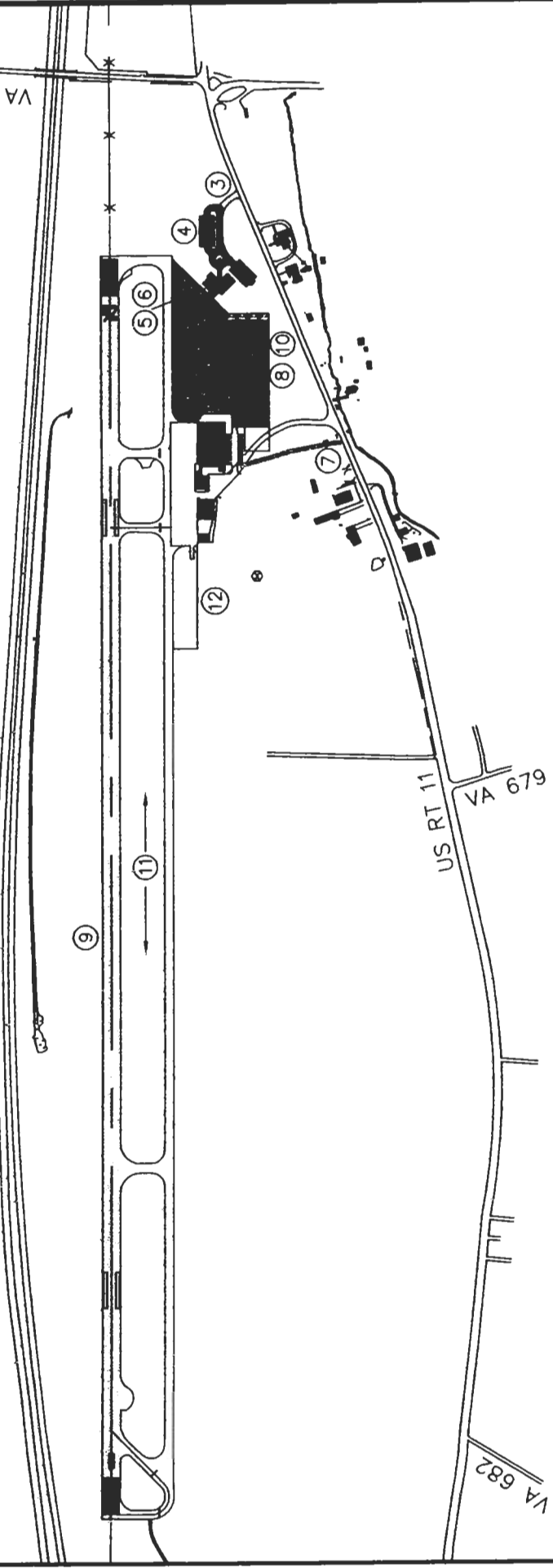
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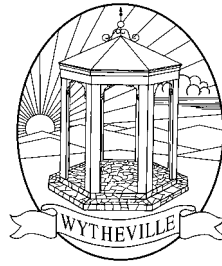
INTERSTATE I-81

TO MARION



LEGEND

- | | | | |
|---|-------------------------------------|---|-------------------------------|
| ① | CONSTRUCT EASTSIDE APRON | ⑦ | RELOCATE SR 705 |
| ② | ALP UPDATE | ⑧ | SOUTHSIDE T-HANGER SITE PREP |
| ③ | CONSTRUCT TERMINAL ACCESS ROAD | ⑨ | RUNWAY 8-26 OVERLAY |
| ④ | CONSTRUCT TERMINAL PARKING LOT | ⑩ | CONSTRUCT SOUTHSIDE T-HANGERS |
| ⑤ | CONSTRUCT AIRPORT TERMINAL BUILDING | ⑪ | INSTALL TAXIWAY LIGHTING |
| ⑥ | ACQUIRE AIRPORT FURNITURE | ⑫ | CONSTRUCT WESTSIDE APRON |



Meeting Date:	Monday, July 26, 2004
Item Name:	Other Business
Item Number:	J-2
Subject:	Planning Commission annual report

SUMMARY:

Attached is the 2003-04 annual report of the Wytheville Planning Commission. Councilman Jones, as the Council liaison on the Commission, will summarize the activities of the Planning Commission.

**WYTHEVILLE PLANNING COMMISSION
2003-2004 ANNUAL REPORT**

The Wytheville Planning Commission respectfully submits this report for Fiscal Year 2003-2004 to the Wytheville Town Council.

The Planning Commission membership is presently composed of the following members: Mr. Scot S. Farthing, Mr. John W. Jones, Jr., Dr. William F. Snyder; Mrs. Maxine F. Manuel; Mr. David T. Bush, Mr. Richard W. Martel, Mr. Kenny W. Ervin.

Over the past year, Dr. William F. Snyder served as Chairperson, and Mr. Scot S. Farthing served as Vice-Chairperson. In January 2004, Mr. Scot S. Farthing was elected Chairperson, and Mr. H. Judson Lambert was elected as Vice-Chairperson. With the resignation of one member (James Gleaves), the expiration of another member's term (William Bondurant), and the election of Mr. Lambert to the Town Council, three new members were appointed to the Commission including David T. Bush, Richard W. Martel, and Kenny W. Ervin.

The Planning Commission has met monthly with rigorous agendas consisting of ordinance revisions and additions, special exception permit requests, and rezonings. In addition, Mr. John W. Jones, Jr., Dr. William F. Snyder, Mr. William I. Bondurant, and Mr. H. Judson Lambert attended the Planning Commissioner's Institute in Charlottesville in October 2003. Several of the new members will be scheduled to attend the Planning Commissioner's Certification Program offered in the fall of 2004.

The following is a condensed bimonthly summary of the Planning Commission's activities over the past year. The Planning Commission will be glad to update the Council on any particulars of this report if there are any questions, comments, or concerns.

July and August 2003

Held a public hearing and made a recommendation to the Town Council to approve the request of Thomas B. Baird for the rezoning of property located at 420 and 430 North Fourth Street from R-2 Residential to B-1 Business with Conditions.

Conducted a public hearing and made a recommendation to the Town Council to approve, with certain conditions, the request of Rabec Services, Incorporated for a special exception permit to renovate and/or construct a commercial office building on the south side of Franklin Street between Sixth and Eighth Streets in an R-2 Residential District (former Wytheville Manor).

Held a public hearing and recommended that the Town Council approve amending the Town of Wytheville Zoning Ordinance regarding the number of parking spaces required for a movie theater.

Set and held a public hearing to consider the request of Mr. Sandy Etter for the rezoning of property at 380 and 390 Peppers Ferry Road from R-2 Residential to B-1 Business. Recommended that the Town Council approve this request with certain stipulations.

Recommended that the Town Council give preliminary approval to the request of Robert James for the construction of townhouses on property located at the intersection of Umberger Street and Fisher Road, which is located in an R-3 Residential District.

Discussed recycling and/or trash transfer facilities and in which zoning districts these uses should be permitted.

Discussed various amendments to the Planned Unit Development Ordinance. Consensus of the Planning Commission to request the Town Attorney to review these amendments before setting a public hearing to amend the ordinance.

Set a public hearing to consider the request of Mr. David Jones for the rezoning of property at 195 North 19th Street from R-2 Residential to B-1 Business.

Discussed the Planning Commission members attending the Virginia Institute for Planning Commissioners.

Submitted the 2002-2003 Planning Commission Annual Report to the Council for their review.

Discussed the Town accepting the Request for Qualifications for wireless telecommunications facilities services. Consensus of the Planning Commission to review a synopsis of the interviews with each consulting company before making a recommendation to the Town Council regarding a consulting company.

Discussed nonconforming lots in older neighborhoods.

September and October

Conducted a public hearing and made a recommendation to the Town Council to deny the request of Mr. David Jones for the rezoning of property located at 195 North 19th Street from R-2 Residential to B-1 Business with Conditions.

Heard a presentation from the Wythe County Planning Commission regarding proposed zoning in Wythe County.

Set a public hearing to consider amendments to the Planned Unit Development Ordinance.

Recommended to the Town Council to award the services for wireless telecommunications facilities to The Center for Municipal Solutions.

Held discussions on nonconforming structures in older neighborhoods at the September and October meetings. Consensus of the Planning Commission to continue discussions until the November meeting.

Requested Town staff to research the possibility of placing rezoning signs on an individual's property who has requested a rezoning.

Discussion was held regarding the Planning Commissioner's Institute scheduled for October 2003. Travel arrangements were finalized for those attending the meeting.

Recommended to the Town Council to give final approval to the request of Mr. Jim Willis for the construction of townhouses on property located at the intersection of Umberger Street and Fisher Road contingent upon compliance with the requirements of the Zoning Administrator and the Zoning Ordinance.

Discussion was held regarding the current zoning of the Alco property.

Continued discussion was held on solid waste issues and in which districts these types of uses should be permitted.

Requested Town staff to attend the County meeting regarding the proposed Wythe County Zoning Ordinance.

Heard an update from Town staff regarding the operation of the car detailing business located on the Terry property at 275 South 20th Street.

Discussion was held regarding the Sign Ordinance and its governance of church signs.

November and December

Held a public hearing and made a recommendation to the Town Council regarding amendments to the Planned Unit Development Ordinance.

Set a public hearing to consider revisions to the Zoning Ordinance regarding nonconforming structures in older neighborhoods.

Heard a report from Town staff regarding the compatibility of the proposed County zoning with the Town of Wytheville zoning.

Discussed information received at the Planning Commissioner's Institute.

Held a discussion regarding blighted properties in town.

Dispensed with the December 2003 meeting due to the Christmas holidays.

A brief discussion was held regarding church signs as well as rezoning signs to be placed in a person's yard who has applied for a rezoning.

Discussion was held regarding the interstate expansion and the Town's position on this matter.

Briefly discussed the status of the donation of the Alco property to Wytheville Community College.

Mr. James Gleaves announced his resignation from the Planning Commission.

January and February 2004

Held annual officer elections, and Mr. Scot Farthing was elected as Chairperson and Mr. Judson Lambert was elected as Vice-Chairperson.

Conducted a public hearing and made a recommendation to the Town Council to approve amending the Town of Wytheville Zoning Ordinance regarding nonconforming structures on developed lots platted prior to 1969 in R-2 Residential and R-3 Residential Districts.

Discussion was held regarding the update of the Comprehensive Plan. Consensus of the Planning Commission to invite several town citizens to serve on a Visioning Subcommittee to assist with the update of the Comprehensive Plan.

Heard from Mr. Michael B. Graham who owns property at 495 North Fourth Street about the possible rezoning of his property and/or an application for a special exception permit. Discussion was held regarding the business growth on Fourth Street.

Recommended to the Town Council to give preliminary approval to the plans of the Wytheville Redevelopment and Housing Authority for the Cassell Pines Project planned unit development contingent upon final technical compliance with the Subdivision Ordinance and the Planned Unit Development Ordinance.

Heard a report from Town staff regarding the car detailing operation on the Terry property located near 20th and Union Streets.

March and April

Continued discussion was held regarding the update of the Comprehensive Plan.

Discussion was held regarding the current zoning of the properties located on the west side of Petunia Road between Old Stage Road and West Lee Highway.

Town staff discussed the International Zoning Code with the Planning Commission.

Discussion was held regarding the Alco property.

Town staff notified the Planning Commission that they may receive a subdivision request for the property located on the south side of Route 11 West, known as the Deerfield Project.

Set a public hearing to consider the request of Mr. Michael B. Graham for a special exception permit to operate a commercial office building at 495 North Fourth Street.

Adopted a resolution honoring Mr. William I. Bondurant for his service to the Planning Commission.

Town staff updated the Planning Commission on the work of the Visioning Subcommittee toward the Comprehensive Plan.

Reviewed information regarding attending a low impact development seminar.

May and June

Members of the Visioning Subcommittee presented their work thus far to the Planning Commission for their review. Consensus of the Planning Commission to request the Visioning Subcommittee to continue updating the Comprehensive Plan.

Held a public hearing and made a recommendation to the Town Council to approve, with conditions, the request of Mr. Michael B. Graham for a special exception permit to operate a commercial office building at 495 North Fourth Street.

Presented a resolution to Mr. William Bondurant for his service to the Wytheville Planning Commission.

Set a public hearing and made a recommendation to the Town Council to amend the Zoning Ordinance regarding revisions to the floodplain regulations.

Considered the request of Federation of Appalachian Housing Enterprises for final approval of the subdivision of property located on the south side of West Lee Highway between Petunia Road and West End Cemetery known as the Deerfield Project. Recommended that the Town Council approve the subdivision request, but with stipulations.

Set a public hearing to consider rezoning the properties on the west side of Petunia Road between Old Stage Road and West Lee Highway from R-3 Residential to R-1 Residential.

Set a public hearing to consider the rezoning of the west side of South Fourth Street between West Madison Street and Railroad Avenue from M-1 Industrial to R-3 Residential.

Set a public hearing to consider amending the Town of Wytheville Subdivision Ordinance and Article XIV of the Zoning Ordinance regarding floodplain regulations.

Recommended to the Town Council to adopt a resolution regarding an interim application process for wireless telecommunications facilities.

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE TOWN COUNCIL
HELD IN THE COUNCIL CHAMBERS ON MONDAY, JULY 12, 2004, AT 7:00 P.M.**

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

Members absent: William B. Weisiger

Others present: Town Manager C. Wayne Sutherland, Jr., Assistant Town Manager Stephen A. Moore, Town Clerk Sharon P. Hackler, Town Treasurer Michael G. Stephens, Town Attorney Robert P. Kaase, Patrol Officer Chris Irvin, Sergeant Dewey Clemons, Police Intern Workman, Stephanie Porter-Nichols with Wytheville Enterprise, Agnes Eades, Coleman Shuler

RE: CALL TO ORDER, QUORUM, INVOCATION, PLEDGE

Mayor Crewe called the meeting to order and established that a quorum of Council members was present. The invocation was given by Councilman Jones followed by the Pledge of Allegiance led by Vice-Mayor King. Mayor Crewe noted that the Council welcomes Councilman Lambert to his first official meeting, and advised that the Council is glad to have him serving with them. Councilman Lambert stated he is glad to be attending the meeting.

RE: REORGANIZATION OF COUNCIL

Mayor Crewe stated as a result of the May 4, 2004, election at which Vice-Mayor King was reelected and Mr. Judson Lambert was elected to the Council, the Town Council needs to be reorganized. He noted that Vice-Mayor King and Councilman Lambert are now seated as members of the Town Council and can legally participate and are full members and participants. Mayor Crewe stated the first position for the Council to elect is a Vice-Mayor and inquired if there are any nominations. A motion was made by Councilman Jones and seconded by Councilman Lambert that Jacqueline K. King be reelected as Vice-Mayor. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None.

Mayor Crewe noted it will now be necessary to appoint a Town Manager and inquired if there is a motion or if the Council would like to make all of their appointments at one time. Vice-Mayor King and Councilman Jones suggested that the Council make all of their appointments at one time. Mayor Crewe noted it is necessary to appoint a Town Manager, Clerk of Council, Town Treasurer, and Town Attorney. A motion was made by Vice-Mayor King and seconded by Councilman Jones to reappoint C. Wayne Sutherland, Jr., as Town Manager; Sharon P. Hackler as Clerk of Council; Michael G. Stephens as Town Treasurer; and Robert P. Kaase as Town Attorney. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None. Mayor Crewe advised that the Council appreciates the efforts of the Town staff.

Mayor Crewe stated it will now be necessary to appoint a Budget and Finance Committee and a Public Works Committee. He noted he has talked to the Council members about this, and Councilman Lambert had indicated he would like to serve on the Public Works Committee. Mayor Crewe remarked that unless there is some objection, he would suggest that the Council continue to have Vice-Mayor King and Councilman Jones serve on the Budget and Finance Committee and Councilmen Weisiger and Lambert serve on the Public Works Committee. Mayor Crewe noted that since there are no objections, he will appoint Vice-Mayor King and Councilman Jones as members of the Budget and Finance Committee and Councilmen Weisiger and Lambert as members of the Public Works Committee.

Mayor Crewe noted that there are a series of Committees to which the Council will need to appoint members and these include the Planning Commission. He advised that one member of the Council needs to serve as a member of the Planning Commission, and, currently, Councilman Jones serves on the Commission. Mayor Crewe inquired if Councilman Jones is willing to continue to serve on the Planning Commission. Councilman Jones advised that he is willing to continue to serve on the Planning Commission. A motion was made by Vice-Mayor King and seconded by Councilman Lambert to appoint Councilman Jones as the liaison member to the Wytheville Planning Commission. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None.

Mayor Crewe stated it will now be necessary for the Council to appoint a liaison member to the Recreation Commission. He advised that Vice-Mayor King currently serves on the Recreation Commission. Mayor Crewe inquired if Vice-Mayor King is willing to continue to serve on the Recreation Commission. Vice-Mayor King advised that she will continue to serve on the Recreation Commission. A motion was made by Councilman Jones and seconded by Councilman Lambert to reappoint Vice-Mayor King to the Recreation Commission and the Wall of Honor Committee. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None.

Mayor Crewe noted the Council needs to appoint a liaison member to the Board of Architectural Review. He noted that Councilman Jones currently serves in this capacity. Councilman Jones stated he would like to ask if Councilman Lambert would serve on the Board of Architectural Review. Councilman Lambert stated he will serve on the Board of Architectural Review. A motion was made by Councilman Jones and seconded by Vice-Mayor King to appoint Councilman Lambert to the Board of Architectural Review. Mayor Crewe stated the motion is to appoint Councilman Lambert to the Board of Architectural Review and inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None.

Mayor Crewe remarked it will also be necessary to appoint a liaison member to the Wytheville Redevelopment and Housing Authority. He noted that this position was previously held by Mr. Crockett. A motion was made by Vice-Mayor King and seconded by Councilman Jones to appoint Councilman Weisiger as the liaison member to the Wytheville Redevelopment and Housing Authority. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None.

Mayor Crewe stated the Council needs to make an appointment of a Council member to the New River Regional Water Authority. He advised that the Town used to have two members, but now the Town needs to appoint three members to the Authority. Mayor Crewe noted the current members are Town Manager Sutherland and Mr. Crockett, and the Council needs to appoint a third member and appoint someone to take Mr. Crockett's position. A motion was made by Vice-Mayor King to reappoint Town Manager Sutherland and to appoint Councilmen Weisiger and Lambert to the New River Regional Water Authority. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None.

Mayor Crewe noted that these are all of the Committees that need appointments made to them. He thanked the Council members and Town staff for serving on these Committees. Mayor Crewe stated the Council is now officially reorganized.

RE: CONSENT AGENDA

Mayor Crewe presented the consent agenda consisting of the minutes of the regular meeting of June 28, 2004; the request of the Wytheville Lions Club for waiver of fees for use of the Bingo Room on August 3, 2004, for their annual picnic; and the request of the Wytheville Training School Cultural Center, Incorporated for issuance of a raffle permit for 2004. A motion was made by Vice-Mayor King and seconded by Councilman Jones to approve the consent agenda consisting of the minutes of the regular meeting of June 28, 2004; the request of the Wytheville Lions Club for waiver of fees for use of the Bingo Room on August 3, 2004, for their annual picnic; and the request of the Wytheville Training School Cultural Center, Incorporated for issuance of a raffle permit for 2004. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None. Councilman Jones advised that he is abstaining from voting on the request of the Wytheville Lions Club for waiver of fees for use of the Bingo Room.

RE: PUBLIC HEARING – FLOODPLAIN REGULATIONS

Mayor Crewe stated the meeting constituted a public hearing (due notice having been given) to consider amendments to Article XVI, General Provisions, Section 16-8, Special Flood Protection Provisions to Meet Requirements of National Flood Insurance Program; Section 16-9, Definitions, Section 16-10, Establishment of Zoning Districts; Section 16-11, District Provisions;

Section 16-12, Variances: Factors to be Considered; and Section 16-13, Existing Structures in Floodplain Districts, of the Town of Wytheville Zoning Ordinance. He noted these amendments are housekeeping type amendments in the Town's Zoning Ordinance to match the National Flood Insurance Program. Mayor Crewe remarked that this has gone through the Planning Commission, and their recommendation is that these amendments be approved. He advised that the amendments change some of the terms and uses, and, for example, uses the word "district" rather than the word "area." He noted these amendments will make the Town's Zoning Ordinance parallel State Code. Mayor Crewe inquired if there are persons present who wish to address the Council during the public hearing on the amendments to the floodplain districts of the Zoning Ordinance. There being no one who desired to address the Council during the public hearing, Mayor Crewe 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 the Town Council during Citizens' Period. There being none, he proceeded with the agenda.

RE: OLD BUSINESS

Under Old Business, Town Manager Sutherland reported the following:

1. The New River Regional Water Authority met today, but their normal meeting day would have been Thursday, July 15. The nature of the meeting today was that representatives from various State and Federal funding agencies were present to hear an overview of what the project would consist of, and to offer suggestions and ways the Authority may want to make application for funds. For the new members, who are Councilmen Weisiger and Lambert, they will, likewise, need to be sworn in for this office, and the Authority will provide them with information. Town Manager Sutherland noted that Councilmen Weisiger and Lambert will have to complete another financial disclosure as members of the Authority.
2. As the Council will recall, in the past several months in Committee meetings, Rural Development, in going through the process of the loan for the new community center project, is seeking some additional information. As the Council will recall, Rural Development wanted the description of the building as it was submitted a couple of years ago to be revised to reflect the different components that will now be in the building, including items like childcare and other items and to use words in those descriptions that would be acceptable to the Federal program. Assistant Town Manager Moore has redrafted this and met with Ms. Sally Hamer with Rural Development, and as far as Town staff is aware, Ms. Hamer will find these acceptable. If the Council recalls, Rural Development also wanted the adoption of some type of operations budget for the facility. Town staff has distributed the operations budget to the Town Council, and the Council could well speculate that this is not reflective of something that is actually going to happen three or four years from now, but Rural Development does, in fact, want this type of document adopted and submitted to them for their files. Town Manager Sutherland advised he did not know if the Council is comfortable with adopting this operations budget at this meeting. He noted if the Council could adopt this budget at this meeting, it would be good, but if the Council wanted to study the matter for a few more weeks, that would also be acceptable. Mayor Crewe inquired as to the pleasure of Council. He stated that Councilman Lambert has seen these figures in earlier discussions, and advised that he knows the Committees have reviewed this document. Councilman Jones indicated that this operations budget is something that could be changed. Mayor Crewe stated that is correct and noted this is a proposal. He advised he thinks Rural Development wants to ensure that the Town realizes there is going to be a cost of operating this facility. Town Manager Sutherland remarked that these are general obligation bonds. Mayor Crewe stated that is correct, and it is not as though it makes a difference. A motion was made by Councilman Jones to approve the estimate of probable cost for the community center and to authorize Town staff to forward the necessary documentation to Rural Development. The motion was seconded by Vice-Mayor King. Mayor Crewe stated he needed to think about the wording, and inquired of Assistant Town Manager Moore if when he met with Ms. Hamer today if she gave him any indication as to what she wants because Town Manager Sutherland advised that the Council needs to adopt this operations budget. Assistant Town Manager Moore noted that the wording Rural Development is looking for is an operating budget. He explained that they have a form that is similar to this estimate of probable cost sheet that they would like for the Town to complete. Assistant Town Manager Moore advised that it is the costs of operating and debt service for the facility. Mayor Crewe stated the motion is

to approve this estimated cost and authorize Town staff to complete the necessary forms for Rural Development. Councilman Jones advised that is correct. Mayor Crewe inquired if he is understanding correctly what the Town has done before and what they are doing at this meeting. Assistant Town Manager Moore noted that the terminology used by Rural Development is an operating budget, but he thinks this is acceptable. Mayor Crewe indicated that this document could be called the estimated operating and construction budget. He noted that the document has more than operating costs listed in it. He noted that what Rural Development needs is an operation budget, and he thinks that Councilman Jones' motion is that the Council approve this and document the necessary information to Rural Development and authorize the Town staff to do this. He inquired if this is the motion that Vice-Mayor King seconded. Vice-Mayor King stated that is correct. Mayor Crewe inquired if there is any discussion on the motion. Councilman Lambert stated he would suspect that the Town is going to have to provide a more detailed operating budget, and his understanding is an operating budget is correct. Mayor Crewe advised that Councilman Lambert is probably correct, but noted that Rural Development did not require an operating budget when the Town received the original commitment, and this is an after-the-fact request, but noted that Councilman Lambert may well be correct. Councilman Jones stated he would suspect that in a couple of years, or whenever the community center is finally finished, the Council will have a better idea of what the income is and what the Town's cost will be, and, therefore, the Council will have a better means of determining what they are going to do. Mayor Crewe noted that the Council has talked about taking money out of reserves, and this is also not reflected in these numbers, and all of these numbers are only an estimate. He 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., H. Judson Lambert. Against: None.

RE: BUDGET AND FINANCE COMMITTEE REPORT

Councilman Jones, reporting for the Budget and Finance Committee, stated that at the last Council meeting, the Council approved on third and final reading the budget for fiscal year 2004-2005. He noted on the appropriations side of the budget, both for the General Fund and the Water and Sewer Fund, departmental budgets were approved. Councilman Jones advised that this was the first time that monies were appropriated in broad departmental categories. He stated that since the adoption of the budget, the Committee has requested and has now received from the department heads a line item listing of all funding activities within the departmental budgets. He stated that over the next few weeks, the Committee will be evaluating line items submitted by the various department heads. Councilman Jones noted that the purpose in adopting a departmental budget as opposed to reviewing all of the line items is it identifies to the department head the maximum allocation for the year and then permits the department head to direct appropriations in the most efficient fashion. He stated since this is the first time the Council has adopted the budget in this fashion, the Committee will evaluate it as the year goes on to determine if they want to use this type of approach in the development of the budget for next fiscal year. Councilman Jones remarked that there is no action required of the Council on this matter.

Councilman Jones also reported that there are certain functions at the Community Center or in one of the Town's parks that require the presence of an off-duty police officer. He advised that generally, these functions involve consumption of alcohol during the activity. Councilman Jones noted that additionally, there are other situations where off-duty police officers are employed such as football games and other large activities. He explained that the Town was paying wages earned by the off-duty police officer in a check separate from the normal payroll check. Councilman Jones noted that the Town's auditors advised it was necessary for the Town to make payment for these off-duty wages as a part of normal payroll, which means that FICA taxes had to be taken from the off-duty employment wages. He remarked that the rates the Town charges for these off-duty officers has now changed from the rate one year ago because of cost of living adjustments given Town employees in the new budget year. Councilman Jones stated as such, it is necessary that the Council establish the off-duty rate of \$28 per hour for off-duty police officers. He advised it is the recommendation of the Budget and Finance Committee that the Council establish the rate of \$28 per hour for services provided by an off-duty police officer. A motion was made by Councilman Jones and seconded by Vice-Mayor King that the Council establish the rate of \$28 per hour for services provided by an off-duty police officer. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None. A copy of the Budget and Finance Committee report is attached and made part of these minutes. ([Attachment](#)).

RE: PUBLIC WORKS COMMITTEE REPORT

Councilman Lambert, reporting for the Public Works Committee, reported that the Town has received a petition from the Old Stage Crossing Homeowners Association seeking the Town to assume the ownership and maintenance of the street known as Old Stage Crossing. He advised that in order to understand the nature of this request, it may be helpful to provide a brief historical overview. Councilman Lambert noted that the Old Stage Crossing is the large tract of property situated on the north side of Old Stage Road and south of West Main Street. He indicated that this development was to be constructed in two phases with the first phase being a series of townhouses and with the second phase being a mix of single family and multiple family dwellings. Councilman Lambert remarked that the developer was insistent that the roads within this parcel of land would be privately owned and controlled by the Homeowners Association. He explained that one section of roadway in phase one has been constructed while the remaining portion of roadway in phase one and none of the roadway in phase two were developed. Councilman Lambert advised that the developer constructed six townhouses along the completed portion of roadway and started construction on two additional units, which have yet to be completed. He noted since that time, the developer has taken bankruptcy and all unsold property has now been conveyed to another party. Councilman Lambert stated that before making any recommendations concerning this issue, the Committee thinks there are a number of questions that need to be researched. He noted that first, the Homeowners Association documents and associated plats of parcels of properties had certain stipulations about common properties such as the roadway. Councilman Lambert stated that secondly, it is unclear how many individuals, corporations, or banks are involved in the ownership of these parcels of land referred to as Old Stage Crossing. He advised that before proceeding any further on this issue, it is the recommendation of the Public Works Committee that the Town ask Town Attorney Bob Kaase to review all documents and plats associated with this development. Councilman Lambert indicated that the Committee also thinks it would be advantageous to the Homeowners Association to retain legal counsel to assist the Town in evaluating the request. He commented that the Town is sympathetic with the situation in which these property owners find themselves, but the Committee believes any action by the Town will need to be well researched and not be precedent setting for future requests to accept private streets into the Town's system. Councilman Lambert advised if this recommendation sounds reasonable to the Council, the Committee will ask Town Attorney Kaase to proceed with this research. Mayor Crewe advised that this comes as a recommendation from the Public Works Committee and noted that he knows the Budget and Finance Committee talked about this. He inquired if any Council member has any problems with this recommendation. There being no one expressing any concerns about the recommendation, Mayor Crewe stated this recommendation will be accepted and the Council will request Town Attorney Kaase to review all of the documents and plats associated with the Old Stage Crossing.

Councilman Lambert also reported that the Town has received a letter from Star Solutions seeking its input on the proposed improvements to the Interstate 81 Corridor through Virginia. He noted that as the Council may recall, the Virginia Department of Transportation solicited private companies to submit proposals on the design, cost, and construction of these improvements on I-81. Councilman Lambert advised that two companies submitted proposals, and, ultimately, the Department of Transportation chose to proceed with the proposal submitted by Star Solutions. He remarked that Star Solutions advises they have received a great deal of information through the process about general design features of the Corridor improvements, but have not solicited or developed a definitive list of local issues. Councilman Lambert stated that as the Council knows, the Town has responded to inquiries from the Department of Transportation and the private firms on a number of occasions. He noted the Council thinks that the issues the Town has previously raised are still applicable and the Town's primary interest is to ensure that any improvements done on the concurrent sections of I-81 and I-77 do not negatively impact the Town's existing businesses. Councilman Lambert advised that the Council thinks there needs to be adequate interchanges and signage that does not impact the economy of the community. He stated there are a number of other issues that the Town has supported such as inclusion of light rail into the interstate corridor system including the incorporation of an inland port into Progress Park. Councilman Lambert noted if the Council is agreeable, the Town will respond to Star Solutions with all of these previously identified concerns and suggestions. Mayor Crewe inquired if any Council members have any problems with this suggestion. It was the consensus of the Council to authorize responding to Star Solutions with the previously identified concerns and suggestions regarding the improvements to the Interstate 81 Corridor through Virginia. Mayor Crewe noted that a couple of the letters the Town has sent have been signed by him, and advised he did not know who the letter needs to be signed by. Town Manager Sutherland advised that the Town staff will prepare the letter for Mayor Crewe's signature. A copy of the Public Works Committee report is attached and made part of these minutes. ([Attachment](#)).

RE: ORDINANCE NO. 1174

Mayor Crewe presented Ordinance No. 1174, an ordinance amending and reenacting Article XVI, General Provisions, Section 16-8, Special Flood Protection Provisions to Meet Requirements of National Flood Insurance Program; Section 16-9, Definitions; Section 16-10, Establishment of Zoning Districts; Section 16-11, District Provisions; Section 16-12, Variances: Factors to be Considered; Section 16-13, Existing Structures in Floodplain Districts, of the Town of Wytheville Zoning Ordinance, on first reading. He advised that this ordinance was the subject of the public hearing held earlier in the meeting. Mayor Crewe stated these are housekeeping amendments to the floodplain regulations to match the State regulations and State law. He noted the suggestion is that the ordinance be adopted on first and final reading. A motion was made by Councilman Jones and seconded by Vice-Mayor King to suspend the rules and adopt Ordinance No. 1174, an ordinance amending and reenacting Article XVI, General Provisions, Section 16-8, Special Flood Protection Provisions to Meet Requirements of National Flood Insurance Program; Section 16-9, Definitions; Section 16-10, Establishment of Zoning Districts; Section 16-11, District Provisions; Section 16-12, Variances: Factors to be Considered; Section 16-13, Existing Structures in Floodplain Districts, of the Town of Wytheville Zoning Ordinance, on first and final reading. Mayor Crewe inquired if there is any discussion on the motion. There being none, Mayor Crewe advised that the Council votes on ordinances by roll call vote, and the motion was approved with the following voting in favor and there being no opposition:

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

AGAINST: None

ABSTENTIONS: None

Ordinance No. 1174 was adopted on first and final reading. Mayor Crewe advised that this ordinance is effective immediately.

RE: APPOINTMENT – BUILDING CODE APPEALS BOARD

Mayor Crewe stated the next agenda item is notification of an appointment to the Building Code Appeals Board to fill the expiring term of Mr. Mark Zammit whose term expires July 26, 2004. He advised that Mr. Zammit is eligible for reappointment. A motion was made by Vice-Mayor King and seconded by Councilman Jones to reappoint Mr. Mark Zammit to the Building Code Appeals Board. Mayor Crewe inquired if there is any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Trenton G. Crewe, Jr., Jacqueline K. King, John W. Jones, Jr., H. Judson Lambert. Against: None.

RE: PLANNING COMMISSION RECOMMENDATIONS

Mayor Crewe stated the next agenda item is the consideration of three recommendations from the Planning Commission that need to be scheduled for public hearings. He noted the Council can meet the advertising requirements by setting all three public hearings for August 9, 2004, at 7:00 p.m. He stated the first recommendation is the rezoning of the properties located on the west side of South Fourth Street between West Madison Street and Railroad Avenue from M-1 Industrial to R-3 Residential. Mayor Crewe remarked that the second recommendation is the rezoning of the properties located on the west side of Petunia Road between Old Stage Road and West Lee Highway from R-3 Residential to R-1 Residential. He advised that the third recommendation is amending the Town of Wytheville Subdivision Ordinance, Section 5, General Regulations, Subsection 5-4, Building Site; and Section 7, Establishing Floodplain Districts, Requiring the Issuance of Permits for Development, and Providing Factors and Conditions for Variances to the Terms of the Ordinance; and amending the Town of Wytheville Zoning Ordinance, Article XIV – Permanent Mobile Home/Manufactured Home Parks, Section 14-1, Application for Permit, to include floodplain regulations. Mayor Crewe inquired if any member of Council has any problems with setting a public hearing on August 9, 2004, to consider all three of these recommendations. It was the consensus of the Council to set a public hearing for the August 9, 2004, Council meeting, at 7:00 p.m. to consider all three recommendations from the Planning Commission. Mayor Crewe noted that Town staff will proceed with the advertisements for these public hearings so the Town can comply with the advertising requirements to hold the public hearings on August 9. Councilman Jones advised that he would like to note that on the first recommendation on the rezoning of the properties on the west side of South Fourth Street between West Madison Street and Railroad Avenue from M-1 Industrial to R-3 Residential, there were no basic problems on this rezoning. He explained

that on the proposed Petunia Road rezoning from R-3 Residential to R-1 Residential, the Planning Commission did have two gentlemen, Mr. George Fisher and Mr. Larry Edwards, who are planning a subdivision which would come off of Petunia Road, and they requested the Planning Commission to table the request. Mr. Jones advised, however, that the Planning Commission voted to approve the rezoning. He noted he wanted to make the Council aware of the fact that he is sure Mr. Fisher and Mr. Edwards will be present on August 9 to, again, request that the rezoning be tabled. He remarked that he thinks on Petunia Road, these gentlemen would like to put in some duplexes or something of this nature for elderly and young people. Mr. Jones advised that other than this, most of the citizens who spoke were in favor of the rezoning. Mayor Crewe thanked Councilman Jones for the update.

RE: COLEMAN SHULER

Mr. Coleman Shuler was recognized and stated he is a little dizzy and he has had a little trouble today with his blood pressure. He stated he does not expect this to happen, but if he was to pass out or something, he would request someone to place something cold on his head quickly because that is probably the only thing that would work. Mr. Shuler indicated that if he feels himself fainting, he will sit down. He remarked that he had come to the last Council meeting, and viewing the fact that the Council had a very long and complicated agenda, and in view of the fact that he and everyone was aware of all of the circumstances relative to the matters that he was bringing forward, he had intended to ask for the three brief requests without going into any great detail because he knew those were three fair requests and they would best serve the interests of the Town, Town staff, and the citizenry. Mr. Shuler noted that needless to state, since he was requesting them, they would best serve his interest. He remarked that he made the requests very briefly, and noted as he is sure the Council will recall, one was that the legal proceedings only be stopped, not the specific ten complaints that had been filled out by Building Official Massie. He advised that just the fact that this had been prematurely taken to court before being given adequate opportunity to reply, his first request had been that there be a cessation of court action and that he and the Town work cooperatively to solve the original problems that had been written by the Master Code Official. Mr. Shuler noted the second request was that he be able to get the information he had requested, and noted he had requested some information from the Director of Public Safety Newberry that he had said he would provide, which has still to this day not been provided. He indicated that Town Clerk Hackler is attending the meeting, and advised that any information he has requested of her, she has provided even though during that period of time she was on vacation, there were some discussions and communications amongst the Town Manager and the Town Treasurer and a couple of other people, but any information he requested of Town Clerk Hackler had been provided, and they had worked out all of the problems and figured out everything. Mr. Shuler remarked that although he and Town Clerk Hackler had other responsibilities, the information has now been provided. He commented that Director of Public Safety Newberry was the one that gave the instruction, at least according to what he was told, to proceed with court action before he ever provided him with what it would take to comply, and if all of the Council was to review the entire portfolio of facts, they would find his position is solid. He noted that although they sometimes disagree, he is very seldom in error so far as the facts are concerned because he does extensive research and keeps extensive records, and he has a rather good memory. Mr. Shuler stated since he is the only one involved in his situation, and each of the Town staff who are working with him also has a myriad of other things, they cannot be expected to know as much about his situation. He noted he has to know about his situation because he is the only person who has worked with the Town Manager in his case, and he is the only person who has worked with the Town Clerk relative to his situation. Mr. Shuler advised that the only person who has worked with each individual Council person or, for instance, the Town Treasurer, the Master Code Official, the Director of Public Safety, or any of the Town workers over the last 14 years, even the Town Attorney, is him, and he would be the only one who is the one central figure in each of those things. Mr. Shuler remarked that his continuum and his cumulative information has generally been borne out to be extremely accurate. He advised he made his proposal very brief the last time, and, of course, the second thing he requested was that the information be provided, and the third request was, as has been done for other citizens, and at the previous meeting he had requested for a waiver of the cost, which, of course, in his case was very minimal. He stated the decision was made, as the Council recalls, unanimously and very quickly, to deny those three requests. Mr. Shuler indicated that based on some of the comments that were made by some of the Council, one of which is not attending this meeting, and one of which is no longer on Council, and advised he did not know for sure if this information was brought before the Budget and Finance Committee or if it was only brought before the Public Works Committee. Vice-Mayor King answered that it was brought before the Budget and Finance Committee. Mr. Shuler remarked that he knows, based on the comments that came forth from that meeting, that the Committees were given some incomplete information, and he also knows that some of the information probably was deliberately inaccurate. He noted that as he would note again, he would not state something like this unless he could prove it, and

advised that he could prove it. Mr. Shuler remarked that, again, the Council has large, complex issues to handle, but when they think of his home, where he lives, his life, and his health, it is of vital interest to him. He stated these three requests were denied at the last meeting, and, of course, Mayor Crewe remarked that it would be possible that if he broached that particular situation again, Mayor Crewe would possibly consider it out of order. Mr. Shuler remarked that he comes with a different proposal, but added he is more than willing to answer any questions or follow up on anything because, as he stated at the last meeting, he still feels that each of the Council members, as well as Councilman Weisiger who is not at this meeting, and Councilman Lambert who just came on the Council, that the majority of the time the Council tries to do something that is complete and thorough and based on the good of all people. Mr. Shuler reiterated that he genuinely believes this, however, he happens to know of a few situations where there were some slanderous remarks made about him, and if they got around to the Council and they believed them without the proof, that they, obviously, had to have someone thinking that he needed to be levied against and perhaps considered that legal action was a way of quieting him as a citizen and putting him under duress. He noted that, again, there was not time at the last meeting, nor is there time in this meeting, to delve into all of the facts. Mr. Shuler stated he received some clarification from Town Manager Sutherland at a Public Works Committee meeting that he attended following the last Council meeting, and some of the priorities that Building Official Massie listed were reverse of what Town Manager Sutherland, had intended. He noted, of course, Town Manager Sutherland outranks Building Official Massie, but when he gets something from one person and starts to resolve it in this way, and then in midstream, someone states the priorities are something else, at the least, it is a time factor. Mr. Shuler remarked that as he stated at the last Council meeting, him staying alive and being healthy is his number one priority. He noted that stopping and ceasing every other responsibility he has just to adhere to some codes that are first of all intrusive and expensive for him, and for the particular situations that were cited, none of the ten are causing any practical harm to anyone in this entire municipality. Mr. Shuler remarked that it has been written on paper that they are technical violations, but none of them are interfering with or impeding the normal daily life of any other citizen in the municipality. He noted his violations are not prohibiting the other citizens' pursuit of life, liberty, or the pursuit of happiness, but the harassment or the double standard or the delaying of not providing of proper assistance when he has stated from the very beginning that he was totally willing to cooperate are greatly limiting the resolution of this situation because he believes he understood what the intent of Council was in their vote last time, but it is entirely different than the communication he received from people who work under the Council's supervision. Mr. Shuler stated since one of the Council's tasks is to spend the citizens' money wisely today, tomorrow, next month, next year, and as long as the Council members serve, this has to be, at least, to him, of paramount importance for the Council because he only expects one person in this room to be totally committed to what he needs, and that is himself. He noted he can only expect the Town Council to be totally committed to a much broader spectrum of goals. Mayor Crewe advised that the Council members can respond for themselves, but the nature of their discussions at the last meeting and all of the Committee meetings and for years comes down to the fact that there is a disagreement that is years in the making and years in the attempt to resolve this, and they have been unsuccessful on both sides in this, so let the judge decide this. He noted this is basically where the Council is in this situation. Mr. Shuler indicated that this is incorrect because he has not been to any of those Committee meetings in the last six years. Mayor Crewe advised that is correct, but Mr. Shuler has the letters that state he was, for example, going to move the trailer, and it has not been moved. He stated it is a difference of opinion that the Town and Mr. Shuler have gotten nowhere in a number of years. Mr. Shuler advised that as he explained at the last meeting, he communicated with the Town Manager those six years, and his final communication when he explained to Town Manager Sutherland the information he had received from a higher authority at the State of Virginia, there was no follow up letter that stated the Town still finds him in violation. Mayor Crewe noted there was also not a follow up letter that stated Mr. Shuler was not in violation or the deadline was extended, etc. Town Manager Sutherland remarked that there was nothing in that section of State law that was applicable to Mr. Shuler's situation. Mr. Shuler noted that this is immaterial at this point. Mayor Crewe inquired if Mr. Shuler is stating that the Director of Public Safety had not supplied information to him, and inquired as to this information. He noted that this sounds like a Freedom of Information Act request that the Council can deal with. Mr. Shuler advised that people are claiming that there are certain complaints about him that they cannot divulge, and he cannot successfully accomplish this. Mayor Crewe pointed out that if Mr. Shuler is requesting the identity of the people making the complaints, this is protected by State law and is not subject to being disclosed under the Freedom of Information Act. He stated this is why Mr. Shuler needs to go to the judge. Mr. Shuler noted this cannot be this way. Mayor Crewe interjected that this is correct, and there are no questions asked, and that is this way it is. He explained that the identity of the complainant is privileged information that cannot be divulged, and even if the Council wanted to provide the information to Mr. Shuler, they could not provide it to him. Mr. Shuler remarked that some people have stated there were certain people who have complained, and then they will not provide him with that information. Mayor

Crewe stated that no one can identify the identity of the complainant, and it is protected, privileged information by State law, and the privilege cannot be waived. Mr. Shuler inquired if this is true in every situation or just relative to what Mr. Newberry claimed was zoning. Mayor Crewe noted that the information is not protected and privileged in every situation, but there are many situations. He explained that the State law spells out complaints that cannot be divulged. He commented that he did not know how to answer Mr. Shuler other than taking State law and going point by point and reviewing it with him. Mayor Crewe advised that the Freedom of Information Act specifically excludes this information from being disclosed. Mr. Shuler remarked that evidently, the Town employees do not know because some of them will tell him, and some of them will not tell him. He noted that some of the employees will state it is anonymous, and others say they know who it is. Mr. Shuler requested the Council to look at this practically, and noted there are two different sites with one being his house, and one is his mobile home. He stated they are located two miles apart. Mr. Shuler noted that his home is located on land that he, his wife, and the bank own, and the trailer is on land that he and his mother and brothers own that is paid for, but has not yet been divided. Mr. Shuler noted, for instance, he will use his house because he lives on a one acre lot that is relatively rectangular, and he has a landowner that joins him to the south, a right of way that is to his west, and then another landowner across the right of way, a landowner to the north, and a landowner to the east, and these are four separate owners. He remarked that anything at his dwelling, if someone is on the west and they are complaining, he needs to address barriers, beautification, whatever to the west. Mr. Shuler pointed out that if he does not know who said what and why, he may start on the east side, and it would not end up solving the problem. Mayor Crewe indicated that the answer to this is the Council cannot tell Mr. Shuler who or why, but they can tell him what, and that is spelled out in the court document that tells him what the violations are, and noted it even cites the code sections that state why it is a violation. Mr. Shuler inquired if Mayor Crewe is referring to the information that was given to him by Building Official Massie on April 30. Mayor Crewe answered that he is talking about the information that is on the summons from court that lists the violations. Mr. Shuler indicated that he did not know who is better versed, any of the Council members or Mr. Massie, in that particular code section, and noted he did not know the opinion of the Council. He stated that Town Manager Sutherland may think he has been through this on many situations, and he probably knows more about it than Mr. Massie, or Mr. Massie may think it is his area of expertise, and he would yield to him. Mayor Crewe remarked that Mr. Massie is the zoning enforcement officer and is the trained and qualified building official. Mr. Shuler noted if any of the Council members or any other Town employee would meet with him and review the information, they would see that part of what Mr. Massie listed is incorrect. Mayor Crewe stated that is where the Town is headed with all of this, and that Mr. Shuler is stating the information is incorrect, and Mr. Massie is stating the information is correct. He continued that the Council has reviewed the information and thinks that Mr. Massie is correct, and Mr. Shuler can tell it to the judge and let him decide. Mr. Shuler inquired if Mayor Crewe or the Council has come to his house to view it. Mayor Crewe advised that the Council did not go to Mr. Shuler's house, but they reviewed the paperwork. He noted it is not the Council's position to go to Mr. Shuler's house, and the Council does not try his case. Mayor Crewe noted that the judge has to try Mr. Shuler's case. Mr. Shuler stated that all of the Council has to know that integrity wise, he has always had a goal of doing what is best for the town. Mayor Crewe indicated that the Council is not questioning that this is Mr. Shuler's goal. Mr. Shuler stated that this action has been proven, and the Council is going to look really bad when they find out that some people they are paying \$40,000 or \$50,000 do not know their job. Mayor Crewe noted this is a serious allegation to make, and if this turns out to be true, the Town will have to deal with it, and until that is true, or until the Town has information about this, again, the Town and Mr. Shuler have a difference of opinion. Mayor Crewe stated there needs to be a third party to decide it. Mr. Shuler remarked that he would have gone over this with anyone, but Director of Public Safety Newberry did not get back with him. Mayor Crewe stated if Mr. Shuler is asking Director of Public Safety Newberry to get back with him to name the complainants, he cannot do that. He noted he thinks this information has been given to Mr. Shuler, but he is giving it to him again tonight. Mayor Crewe reiterated that the names of the complainants are exempt from disclosure by State law. Mr. Shuler inquired if all complaints or just certain ones are exempt. He inquired of Town Clerk Hackler if she was only looking at just certain categories. Mayor Crewe stated he has a summary of the Freedom of Information Act, and noted he has a couple of different pamphlets, and the one they are reviewing states zoning complainants are exempt. He noted he will read it to Mr. Shuler and show it to him. Mayor Crewe advised that this is a summary by the Weldon Cooper Center on Local Government, Center for Public Service, University of Virginia that has the provisions of the Act and then questions and answers. Mayor Crewe advised that one page is entitled "Records That Are Exempt From Disclosure." He noted the question is "What types of records does the Act exempt from disclosure?" Mayor Crewe advised that the answer is, "As of July 1, 2003, the Act lists over 85 categories of public records that public bodies are not required to disclose." He noted that it goes through a lot of things, but one of the items on that list, and the first one, is "names, addresses, and phone numbers of persons making complaints of zoning violations." He advised that the other states, "Citizens' e-mail addresses furnished to a

public body. If the citizens request that the address not be disclosed..." He noted there are other ones that talk about specific complaints, but these specifically state zoning violations. Mr. Shuler inquired which of the ten violations are zoning, only one. Mayor Crewe answered that he believes all of the violations are zoning. Town Manager Sutherland stated he is not familiar with the list, but, clearly, the trailer is a zoning issue. He remarked that he did not know if the property maintenance violations are zoning matters. Mr. Shuler noted he did not think the property maintenance issues would be based on, at least, the code section that Mr. Massie quoted him and gave him copies of. He advised that even if the Council cannot divulge the name of the person, the facts will still be basically the same. Mr. Shuler noted that in other words, his reason for wanting to know the person is to get the accuracy of the information, the reason that they object, and to see if they can resolve it or if they have an ulterior motive that is not in accordance with law. Mayor Crewe indicated that his answer to this is that is why Mr. Shuler needs to tell the judge. Mr. Shuler stated that is correct. Mayor Crewe noted the fact that someone makes a complaint is irrelevant. He stated the fact that Mr. Shuler has a trailer in violation is the issue, and if the trailer is in violation, it is in violation, and if it is not in violation, it is not in violation. Mayor Crewe continued that, obviously, the Town thinks it is in violation, and Mr. Shuler thinks it is not in violation, and noted that who makes the complaint is irrelevant to that determination. He noted it is in violation for someone on the west of him and in violation for someone to the east, and it is a violation because the code states so. Mr. Shuler indicated that in the six years, or before the six years, at that particular time, the only people who he is aware of that complained were people that either the Town had given them a bad deal and they were just upset, because he found out what the State law was, and realized he had a few different rights, or people, for instance, who have no bearing on it. He explained that it gets very complicated. Mayor Crewe advised it is not complicated, but, apparently, it is complicated to Mr. Shuler. He stated Mr. Shuler is focusing on the wrong area and noted that who complained is irrelevant. Mr. Shuler noted that if the Town is telling him that he does not have a right to own the trailer, he will offer to sell it to the Town. Mayor Crewe pointed out that Mr. Shuler does not have a right to have a nonconforming trailer, and that is the issue. Mr. Shuler stated it was conforming, and it was in a trailer park. Mayor Crewe advised that where the mobile home sits at this time is in violation of the code and has been for at least six years, and Mr. Shuler has acknowledged that in writing, and the Council gave Mr. Shuler a couple of deadlines, and extended it to resolve this problem. He noted this is not open to an interpretation of the facts, and it is not open to who made a complaint, and this is just a difference of opinion. Mayor Crewe remarked that the Council does not think the mobile home conforms, and Mr. Shuler, apparently, thinks the mobile home conforms, and they need a judge to tell them which side is correct and move on. Mr. Shuler stated he understands this, but advised it is open to interpretation of the State law because he would have to assume that someone in the Town already knew the State law, but no one was willing to voluntarily give him that information. Mayor Crewe interjected that the Town's opinion and Mr. Shuler's opinion of State law differ, and they need someone to tell them who is correct, and that is what the judge is for. Mr. Shuler inquired if the Council is aware of the statute and the information that he quoted to Town Manager Sutherland several years ago. Mayor Crewe answered that he thinks several years ago, the Council reviewed it, but noted he cannot tell Mr. Shuler the chapter and verse, and he has not gone back to look at it. Mr. Shuler inquired if the State law has changed since that time. Mayor Crewe answered that he does not think there are any changes in State law on this particular point, but noted there have been a lot of changes in State law in the past six years. He continued that he does not think there has been anything that significantly changes Mr. Shuler's situation at this time. Mr. Shuler noted that in other words, if he had a conforming mobile home, and then a Town employee was instrumental in getting it kicked out of a conforming place, it is going to look really bad. Mayor Crewe advised that, again, Mr. Shuler is focusing on the wrong area. He noted if the mobile home used to be someplace else and conformed, that is acceptable, but that is irrelevant to the fact that where the mobile home sits now is nonconforming. Mayor Crewe stated how the mobile home got where it is currently is irrelevant. He indicated that if Mr. Shuler thinks it is relevant, he needs to ask the judge. Mr. Shuler noted that if the Council realized where the mobile home sits now, as he stated earlier, it is not causing any practical harm to any human being whatsoever on the face of the planet. He stated it is like if it is not broken, do not fix it. Mr. Shuler remarked that if the Council insists, it is like he stated before, all of the issues he has to look at as one document. He noted there are ten specific separate violations, but the proposal he came with at this meeting for a solution was that the Town finds where he lives in violation, nine things to be exact, and finds the mobile home that he used to live in to be in violation, one thing to be exact, for a total of ten things. Mr. Shuler remarked that he has requested for him and the Council to cooperate as reasonable people, and the cumulative answer has been "no," then he made the statement at the last meeting that his mindset then was he would fight until he wins or until he dies. Mayor Crewe advised that this is, obviously, Mr. Shuler's right. Mr. Shuler noted if the Council is willing to fight until they win or until they die, the Town is going to spend way more of the taxpayers' money and Town staff time and money than the citizens will be willing. Mayor Crewe stated this is his point, and noted that Mr. Shuler has had, so far, 28 minutes at this meeting that the Council has

listened, plus the time that the Council listened the other day, and he does not think that anything has changed. He noted that Mr. Shuler has his view, and the Council has its view, and they differ, and that is why they are going to court. Mr. Shuler inquired if he can move to what his proposal is at this meeting. Mayor Crewe stated that Mr. Shuler could present his proposal and inquired if he has something new for the Council to consider. Mr. Shuler stated that is correct. Mayor Crewe advised that if someone on Council wants to make a motion, that is acceptable, but, so far, he does not think Mr. Shuler or the Town Council has changed the other's view, and that is why they need to go to court. Mr. Shuler indicated that Mayor Crewe has advised that 28 minutes is too long at this meeting, and indicated that the last time he was at the Committee meeting, they also stated that was too long, and most of the time it was the Committee members speaking and not him, but when it goes to court, if it does, the reason that he will have to subpoena everyone in this room that is from the front row up is so all of them will hear all of the facts so they will know what they really are, and he will ask each of them to testify to something that will defend his position. Mayor Crewe indicated that Mr. Shuler can summons any witness he desires. Mr. Shuler noted that they can be cross-examined for the Town's position, and, once again, he knows the whole facts, all of them, the ones that are under the table, the ones that are ulterior motives, and indicated that he does not know all of them, but he knows enough that he has a good case. He advised that as he stated, again, he never comes about other people's business. Mr. Shuler remarked that when he tells someone he is sick, and they state they do not care, and he notes that he nearly died last year, and they state, "tough luck, and they are going to send someone out to his house to find violations and make his life tougher." Vice-Mayor King interjected that she does not think that anyone said such a thing. Mr. Shuler inquired as to what Vice-Mayor King is referring to. Vice-Mayor King noted that she did not think anyone stated that "it's tough" that Mr. Shuler is sick or the Town does not care. Mr. Shuler indicated that the Council does not think this, but he heard it, and he will testify to this in court under oath. Vice-Mayor King inquired as to who said it. Mr. Shuler answered that Mr. Stan Massie, for one, stated this. Vice-Mayor King inquired if Mr. Massie stated he did not care if Mr. Shuler was sick or if he died. Mr. Shuler stated that is correct. Vice-Mayor King indicated that she cannot believe that Mr. Massie stated this. Mr. Shuler remarked that Mr. Massie also told him that someone had told him that he threatened to cut them or something. He inquired if any of the Council members have heard that rumor. Vice-Mayor King stated they have not heard that rumor. Mr. Shuler noted that when someone tells him something that he knows is false, but it is of a lascivious, slanderous, destructive nature, it just does not make sense. Town Attorney Kaase inquired of Mr. Shuler if he thinks the things he is stating are completely irrelevant to what is going to happen in court. Mr. Shuler advised that some of the things he is stating are irrelevant, but they are not irrelevant to the good of the Town of Wytheville. Mayor Crewe advised that Mr. Shuler is chasing rumors. Mr. Shuler noted that the Council has to understand that the people who wrote the ten violations put them on paper, and he can attack that on the technicality, but he does not need to go into the rumors. Mayor Crewe pointed out that this is why he needs to go to court. Mr. Shuler indicated that he could file a slander lawsuit against the Town. Mayor Crewe advised that this is Mr. Shuler's right. Mr. Shuler noted that he is the type of person that he does not need to do that if they solve the little problems. Mr. Shuler advised that he will fight until all of the Council members are off of the Town Council unless he dies first, and noted he wants everyone to be on the same team. He explained that there are several people in the room for which he has tremendous respect. Mayor Crewe noted that he thinks everyone knows Mr. Shuler, and no one wishes him any ill will. He stated there are people in this meeting that would not do anything to harm him officially or unofficially. Councilman Jones inquired regarding Mr. Shuler's proposal. Mr. Shuler stated the proposal is that rather than fighting, because he will end up winning, not the first round possibly, but advised he will take it to the U. S. Supreme Court if he has to because people are imposing on where he lives just to deliberately cause him trouble, and so the Council does not end up looking bad, and they never have to go to court, and he never has to go to court, he bought a home outside of town, and the Town annexed him, and he never purchased a home in the Town of Wytheville. Mr. Shuler noted that he will sell the Town his home and his land, and he will sell the Town his house trailer, and will sell the Town all of the cars they are finding in violation, and, then, he would be doing something constructive. He indicated that this fight that is going to court is taking his personal time and his personal money, but it is taking the Council's time and the taxpayers' money. Mayor Crewe stated that so Mr. Shuler knows, he is not the only case the Town has, and this is not the only legal issue that the Town is dealing with. Mr. Shuler indicated that he knows this, but advised he knows that some of this issue, and advised that he has stated some of this to Mr. Massie and some to Mr. Albert Newberry, and indicated that he would never state anything that he has not already stated or would not state to them, but part of what that they are doing is because they do not know what is going on. Mayor Crewe noted that, again, this is Mr. Shuler's opinion. Mr. Shuler stated it is a fact and he can prove it. Mayor Crewe advised Mr. Shuler to prove it to the judge, and the judge will so rule and the fight ends. Vice-Mayor King inquired if there is a court date. Mayor Crewe stated that is correct, and it has been continued, but he believes it is August 4, 2004 and inquired if that is correct. Mr. Shuler answered that is correct as of now. Mayor Crewe indicated that the Council has heard the proposal and inquired

if anyone would like to make the motion that the Council investigate and pursue the option of purchasing from Mr. Shuler the house, the land, the cars, the trailer, and everything that is in violation, basically. He reiterated that the Council has heard the proposal. Mayor Crewe indicated that he did not hear any motions to explore that possibility, so the Council is back to where they were. Councilman Jones stated that in all good conscience, he could not make this motion because if the Town did this for Mr. Shuler, when the next person with the same situation approached the Council, they would expect the Council to treat them the same way. Mayor Crewe stated that this is part of Mr. Shuler's complaint is he thinks he is being treated differently. Mr. Shuler advised that he knows he is being treated differently and he can prove it. Mayor Crewe noted that this is why Mr. Shuler has to prove it to the court. Mr. Shuler stated that the Council does not want the entire Town looking bad with television cameras and everything. Councilman Jones noted that the Council has heard Mr. Shuler before, and they have listened to him, and he respects Mr. Shuler's opinion. He stated that Mr. Shuler has this right, but the Council also has personnel on the staff of the Town who work for the Town whose job is to do whatever it is they are supposed to be doing. Councilman Jones remarked that it is like the police officer attending the meeting. He explained that if the police officer makes a mistake arresting someone, and it goes to court, then the judge is going to rule that the police officer made a mistake. Mr. Shuler inquired if Councilman Jones is referring to Officer Irvin. Councilman Jones stated that is correct. Mr. Shuler noted he would like to tell the Council something about Mr. Irvin personally. Councilman Jones advised that he is just making a point that if one of the Town's personnel made a mistake with respect to Mr. Shuler's case, the judge is going to rule in Mr. Shuler's favor. Mr. Shuler stated that is correct. Councilman Jones remarked that his point, as Mayor Crewe has stated, is the Town is prepared to go to court to find this out. He continued that the Council feels that based on what they have been told or been told based on what the employees' actions are, the Town has taken the proper steps. Councilman Jones advised that he has to have faith that those employees of the Town have done that. He noted just like at his place of business, he has to rely upon his department heads who are much more expert than he is to take care of their business and give him the information he needs so he can make the decisions. Councilman Jones advised that this is what the Council is relying on with this situation. He continued that if the Town employees make a mistake, then the Council has to admit that a mistake was made. Councilman Jones stated that currently, he cannot see that the Council can change anything that is already in motion with all due respect. Mr. Shuler noted that the Council could change what is already in motion. He inquired if the Council found that their Town employees had either acted erroneously, made a mistake, or with some malicious intent, and if he could prove it to the Council with documentation, then would the Council state that they do not want the Town to look bad in court, and they need to realize that he is totally credible and is asking something extremely reasonable, and it is going to help the Council as much as it is going to help him. He stated he can prove factually by documentation that the Town's employees are erroneous and at the salary they are earning, it is not a good buy for the citizenry. Vice-Mayor King interjected that she thinks the whole thing is that Mr. Shuler does not want to go to court, and noted that the Town has an attorney. Mr. Shuler advised that part of it is that someone writes something on April 30 stating that they were sent out to his home to find as many things wrong. Vice-Mayor King stated that Building Official Massie did not state that. Mr. Shuler advised that Mr. Massie did state this to him and it was exactly that. He noted if Mr. Massie advises he did not state this, he is either lying or he forgot. Mr. Shuler remarked that he knows for a fact that Mr. Massie said this. Vice-Mayor King indicated that she has not talked to Mr. Massie. Mr. Shuler noted that he gets upset, but he never is inaccurate in the facts, not intentionally. He indicated that Town Attorney Kaase, six years ago, or whenever it was about the waterline, he said he left a message on his machine, and he called him back. Mr. Shuler advised that he does not know if Mr. Kaase remembers the conversation, but Mr. Kaase stated he never left a message on his machine, and inquired if he remembers the conversation. Town Attorney Kaase indicated that he did not remember the conversation. Mr. Shuler advised that he remembers the conversation, and since it was at a Town Council meeting, if the Council would like to go back to that meeting, they will find that Mr. Kaase made that comment at the meeting. He noted that Town Attorney Kaase stated he did not call him. Mayor Crewe remarked that, again, whatever motive or malice that any Town employee had will have to be decided by the court. Mr. Shuler noted it does not have to be decided by the court. He advised that when someone stated on April 30 that there are ten violations, he asked Mr. Massie to put in writing what it would take to be in compliance. Mr. Shuler noted that Mr. Massie advised he could not put in writing what would make it in compliance. Mayor Crewe noted that Mr. Massie cannot do this and advised that they discussed this the last time. Mr. Shuler inquired as to why Mr. Massie could not do this. Mayor Crewe answered that Mr. Massie is not Mr. Shuler's contractor hired to correct anything. Mr. Shuler noted that this is not his point. Mayor Crewe explained that Mr. Massie cannot give Mr. Shuler building advice, but Mr. Massie can state that something does not comply. He indicated that Mr. Massie cannot tell Mr. Shuler how to make it comply. Mayor Crewe noted that, again, Mr. Shuler has a difference of opinion. He advised he does not think the facts are that much in dispute, but motivation is, obviously, a dispute. Mr. Shuler noted that some of the facts are in dispute. Mayor

Crewe advised that if Mr. Massie notes he did not state something, and Mr. Shuler states that he did, then they will have to go to court. He explained that the Council has been telling Mr. Shuler this for six years. Mr. Shuler advised he would like to ask so that he understands. He inquired as to what the point is of writing it down and why the Town did not give him a warrant the first time. Mr. Shuler noted that if the Council, as the Town leaders, never intended for him to straighten out the ten violations, why bother giving them to him. Mayor Crewe stated the law requires that the Town give Mr. Shuler this document with the written violations. Town Manager Sutherland advised that he does not understand what Mr. Shuler is stating. Vice-Mayor King advised she does not understand either. Mayor Crewe noted what he thinks Mr. Shuler is stating is that the Town wrote him up and gave him the violations before the Town took a warrant or a summons in court. Mr. Shuler inquired of Councilman Jones if he had seen the piece of paper with the ten violations. Councilman Jones stated he had not seen the paper. Mr. Shuler indicated that he was supposed to have been given a reasonable amount of time to correct the violations. He noted he asked Mr. Massie as to how long he thought it would take him to do all of the things to correct the violations if he actually did it. Mr. Shuler noted that Mr. Massie stated it would take him at least six months or possibly longer to correct all of the violations. He stated that Director of Public Safety Newberry had already given Mr. Massie the order to go to court. Vice-Mayor King inquired if Mr. Shuler made any effort to try to correct any of the violations. Mr. Shuler advised that absolutely he had made an effort and inquired if the Council sent Mr. Massie back to his home to take any pictures. Town Manager Sutherland noted that Town staff e-mailed Mr. Shuler, per his request. Mr. Shuler remarked that he did not request this, but he made a statement that Mr. Massie had not been back to his property. Town Clerk Hackler advised that Mr. Shuler had brought an e-mail address to her, and she asked Mr. Shuler for his permission in the e-mail for Mr. Massie to take more pictures. Mr. Shuler noted this was for the original pictures. Town Clerk Hackler remarked that she e-mailed those pictures, but also in the e-mail she sent a request asking if Mr. Massie could come back and take pictures. She noted she did not know if Mr. Shuler opened that e-mail or not, because she did not get a receipt stating it had been received. Mr. Shuler inquired if she sent it at the same time. Town Clerk Hackler advised that is correct. Mr. Shuler stated this part was not received that he was aware of. Mayor Crewe stated that, again, that is a difference of opinion, and this is a difference in the facts. He noted that Town Clerk Hackler sent the e-mail, and Mr. Shuler did not receive it. Mayor Crewe remarked that this is the same situation again. He indicated that the thing that no one can stumble over too many more times is the fact that everyone has letters where they requested Mr. Shuler to comply with the trailer, and Mr. Shuler noted he would make the trailer comply, and the Council extended the deadline at least once, and he thinks twice, if he remembers correctly, years ago, and it is now 2004 and there is still the same situation. Mayor Crewe explained that Mr. Shuler thinks it is a difference of interpretation, and the Council thinks it is a violation of law, and the judge has to decide it. He noted that one side or the other is correct, and the judge will have to determine this. Mr. Shuler advised he would like to ask the Council one simple question and inquired as to why pick now as the time to do this and why wait six years and then all of a sudden it happens. Mayor Crewe stated he does not know the answer to this, and noted that Mr. Shuler is not the only person the Town is doing this with. Mr. Shuler remarked that Town Treasurer Stephens is attending the meeting and noted that Mr. Stephens knows he has had a difficult time paying his town taxes, and Mr. Stephens knows he was sick, or at least he knows he told him he was sick, and noted he does not know if Mr. Stephens believes him. Mayor Crewe indicated that he does not think this is relevant to the issues before the Council. Mr. Shuler noted this is relevant to him. Mayor Crewe stated that the Town has tried its best to work with Mr. Shuler over and over. Mr. Shuler remarked that when he comes to the Council and states he has \$1 million and he can pay 10 people to cover something in five seconds, that is one thing. He noted when he tells someone that he cannot hardly pay his house payments, he has been really sick, and he does not have time to do this immediately, and then the Town is deliberately taking him to court to add insult to injury, and not even giving him time to comply. Mayor Crewe stated he disagrees with this on the fact that the Town has given Mr. Shuler at least six years to comply on the trailer, and he has not. He remarked that the judge can grant Mr. Shuler a request for an extension of time, and the judge can do lots of different things, but what the Council is stating is they are tired of arguing and fussing over this, and they need a resolution and they need to move on, and the judge is going to have to decide it. Mayor Crewe indicated that this is where the Council is with this. Mr. Shuler inquired as to why the Town wrote him up for the other nine violations. Mayor Crewe answered that all of the violations have to be corrected. Mr. Shuler inquired as to why the Town did not give him time to correct them, and there were no six years on the other nine violations. Mayor Crewe stated he did not know what the six years were, but the Town is in compliance with the law, and if Mr. Shuler thinks the Town is not complying with the law, the judge has to rule on it. Mr. Shuler inquired if the other nine violations were things the Town found that day. Mayor Crewe noted that Mr. Shuler can correct the violations and go to court, and the judge will state there are no violations because they are corrected. He stated if the violations are not corrected, then the judge will have to decide whether they are or are not in violation. Mr. Shuler pointed out that he cannot correct all of the violations in that short of a period of time. Mayor Crewe noted this is

what Mr. Shuler needs to tell the judge because the judge has the power to grant extensions. Mr. Shuler stated that when the Town insults his intelligence and his integrity, he is in the defensive posture at this time, and he is only asking the Council for their help. He noted the last time he was asking for help, and this time he is asking for help, and the next time he will ask for help because there is another Council meeting before August 4, and he will have a different proposal at that time. Mr. Shuler stated he will tell the Council ahead of time what the proposal will be, and he will be sure to present the facts at that time. He inquired if the Council wants to know what the proposal is going to be. Mayor Crewe advised that Mr. Shuler can do what he thinks is best. Mr. Shuler advised that his proposal will be to remove several people from their positions, and he will have the documentation to prove that they are either incompetent or they are acting deliberately. Mayor Crewe stated that Mr. Shuler can make any allegations that he deems appropriate to make. He asked Mr. Shuler to remember that if he makes an allegation that proves to be libelous, slanderous, or false, he will be called upon to answer for that. Mr. Shuler inquired if he has ever done that. Mayor Crewe noted that Mr. Shuler has never done that to the Council because the Town is not the arbiter of that, and the judge is going to have to decide. He inquired if any of the Council members know of anything libelous or slanderous that he has ever stated. Mayor Crewe indicated that Mr. Shuler gave three or four statements that Director of Public Safety Newberry refused to give him information, and this is only a half truth because if the information he refuses to give Mr. Shuler was the identity of a complainant on a zoning violation, he cannot release that information. Mr. Shuler noted he is not talking about that. Mayor Crewe indicated that this is what Mr. Shuler stated, and noted he is only going by what he heard Mr. Shuler state. Mr. Shuler advised that the ones that Director of Public Safety Newberry indicated that he had documented that he stated were in the file and he would try to give them to him that day, it has been about a month ago. Mayor Crewe remarked that, again, if that information is the identity of the complainant, Mr. Newberry cannot give it to Mr. Shuler according to State law. Town Manager Sutherland interjected that he will find out what information Mr. Newberry is referring to. Councilman Jones indicated that if the information that Mr. Shuler is requesting is something the Town can provide Mr. Shuler with, he would appreciate it if Mr. Newberry would give it to Mr. Shuler. Mayor Crewe stated he agreed. Councilman Jones remarked that if the information is something that Mr. Newberry cannot give Mr. Shuler, then, obviously, he needs to know this. Mr. Shuler indicated that Mr. Newberry advised that this is information that he stated he could give to him. He pointed out that he is not referring to information that Mr. Newberry stated he could not give him. Mayor Crewe noted that if Mr. Newberry can give Mr. Shuler the information, the Town will provide it to him. Mr. Shuler remarked that if the Council will look in his file, there are complaints over the years about things at the farm and things at his house that are signed or that the person is named. Mayor Crewe stated the fact the person is named does not mean that the name can be disclosed to Mr. Shuler. Mr. Shuler advised that it has already been disclosed, and it was disclosed at the time. Mayor Crewe explained that if the person gives permission or something like that, there are some ways it can be done, and it may have been done inadvertently. He noted he does not know, and he has not gone back and looked at the Freedom of Information Act to see if it has changed, but noted that something has been done to it virtually every year since it has been passed. Mr. Shuler stated there are rules that are a little higher than the Freedom of Information Act. Mayor Crewe indicated that, again, Mr. Shuler needs to propose those to the judge. Mr. Shuler advised that there is the Golden Rule, and they are trying to solve a problem instead of creating a bigger one. Mayor Crewe indicated that he agrees, but they do not seem to be getting anywhere. Mr. Shuler noted that he will have pictures. Mayor Crewe indicated that Mr. Shuler can present anything he thinks is relevant to be presented. Mr. Shuler remarked that as he has stated, he has already tried. He noted that as he has stated, for example, everyone who is making big money is incensed when he takes up their time, but they do not seem incensed that they are trying to take weeks and months and things from him. Mayor Crewe advised that, again, the Town employees' salaries are not dependent upon a complaint against Mr. Shuler, so Mr. Shuler cannot assume that employees are getting paid extra or less because of any complaint against Mr. Shuler. Mr. Shuler remarked that this is not what he means. Mayor Crewe indicated that their job is to enforce the law, and that is what they are attempting to do. Mr. Shuler advised what he is stating is when he comes in and asks for information for 15 minutes or 30 minutes, they talk about how busy they are. Mayor Crewe stated that for the Town employees, whatever Mr. Shuler may be asking for may not be able to be supplied within 15 minutes. He remarked that he knows Mr. Shuler has asked for budget information that has taken hours to collect. Mr. Shuler remarked that this is not his point, but he is talking about the Town employees' willingness. Mayor Crewe noted that the Town employees may not be willing to do it at that particular moment, but the Council will get to the bottom of this, and if Mr. Shuler is asking for information that the Town can provide that has not been provided, the Town will provide it. He commented that if Mr. Shuler is asking for information that is exempt from the Freedom of Information Act and the Town cannot supply it, the Town will not be supplying this information. Mayor Crewe reiterated that this is something the judge has to decide. Mr. Shuler indicated that he understands this, and like he has stated, the Council is going to find out later, and they will have wished that he and the Council would have worked together. Mayor Crewe

stated this is a risk the Town is willing to take. Mr. Shuler stated that the Town is only willing to take this risk because they have been misled about the facts. He noted that if any of the Council members are willing to meet with him and review the paperwork or look over anything, they will find that he is correct. Mayor Crewe indicated that Mr. Shuler can bring any paperwork he would like for the Council to review and give it to Town staff, and the Council will circulate it. He noted that if Mr. Shuler will bring it to the office, it will be inserted in the Committee packets. Mr. Shuler stated that as far as his time, someone is expecting him to do the legwork to prove something and let someone else get away with assuming something. Mayor Crewe advised that, again, he goes back to where he started one hour ago, and that is for Mr. Shuler to tell it to the judge and let the judge decide. He indicated that the Town does not assume anything, and the Town is not asking Mr. Shuler to do anything. Mayor Crewe reiterated that Mr. Shuler can tell it to the judge, and the judge will tell anyone, whether it is Mr. Shuler or the Town, to do whatever needs to be done. Mayor Crewe remarked that this is the only way he sees it. Mr. Shuler noted that the Council advised that they have other court cases with other people in violation. Mayor Crewe indicated that the Town has several cases that they have gone through. Mr. Shuler inquired if the Town normally gives these people time to comply. Mayor Crewe answered that he thinks Mr. Shuler was treated exactly the same as everyone else has been. Councilman Jones pointed out that he thinks the Town has given Mr. Shuler a lot more time than some of the people. Mayor Crewe stated if the Council looks at the extension of the deadlines that the Town gave Mr. Shuler six years ago, Mr. Shuler is probably five years beyond that. He indicated that he does not think the Town has given anyone more than a year in multiple extensions, and noted this is only the trailer part of the matter. Mayor Crewe remarked that he will admit that the trailer matter was the only part the Council was concentrating on at that time. Mr. Shuler noted that as he has stated, the trailer is not causing any trouble. Mayor Crewe advised that there is nothing in the Zoning Ordinance that states, "Thou shalt not have a noncomplying trailer that causes problems for somebody else." He noted the Zoning Ordinance states, "Thou shalt not have a nonconforming trailer." Mr. Shuler inquired if he brings the trailer up to code and hooks it up to water and sewer. Mayor Crewe stated that the trailer will not be in violation. Mr. Shuler inquired if this is how the Council wants to proceed. Mayor Crewe stated this is one option for Mr. Shuler. Mr. Shuler inquired if Mayor Crewe represents his mother as her attorney. Mayor Crewe answered that he has not represented Mr. Shuler's mother in any of this, but indicated that Mr. Shuler knows he has done work for his family over the years. Mr. Shuler advised that Mayor Crewe knows his mother prefers that the mobile home not be placed on the property permanently, and he is trying to cooperate with everyone who has a vested interest. Mayor Crewe noted that, again, this is not the Town's issue, and the Town's issue is that the mobile home is a nonconforming unit that has to be made in compliance. Mr. Shuler indicated that he will try to get the gentleman from Richmond involved in this matter. Mayor Crewe remarked that Mr. Shuler can do whatever he thinks he needs to do to prove his case. Mr. Shuler noted that as he has stated, if his health was not an issue, he would look forward to going to court. Mayor Crewe indicated that he does not think anyone relishes going to court, but this is the only way he sees to resolve this matter. Mr. Shuler noted that as of right now, Building Official Massie is the one who is going to make the Town look the worst. Mayor Crewe noted so be it then. He advised that if Mr. Shuler has information that he would like for the Council to consider, the Council will be more than happy to look at anything Mr. Shuler would like to furnish. Mr. Shuler advised that if the Council is willing to change the decision, he will furnish the information. Mayor Crewe remarked that he had heard nothing on which he wants to change any decision, and everyone on Council can vote anyway they desire and can make any motions they desire. Mr. Shuler indicated that he knows for a fact that the Council has not looked at the file. Mayor Crewe advised that Mr. Shuler knows whatever he wants to know and can tell whatever he wants to tell to the judge, but, again, as he stated 45 minutes ago, he does not see how Mr. Shuler and the Council are going to resolve this amongst themselves, and they need a third party, a judge, to decide. Mr. Shuler remarked that he would like to finish something about Officer Irvin if it is acceptable. Mayor Crewe stated he did not know if what Mr. Shuler is going to state about Officer Irvin is relevant or appropriate. Mr. Shuler indicated that Officer Irvin deserves what he is going to state. Vice-Mayor King stated that Officer Irvin has nothing to do with what the Council is discussing. Mr. Shuler noted Councilman Jones made a statement about Officer Irvin. Councilman Jones advised that he was using Officer Irvin as an example. Mr. Shuler noted that he wanted to use it as an example because Officer Irvin is a person who shows respect for people first, common sense first, fairness first, and he has never had any trouble with him. Vice-Mayor King noted that was why Officer Irvin was hired. Mr. Shuler indicated that Officer Irvin is a credit to this town and to the police force. Councilman Jones indicated that he, certainly, hopes that Officer Irvin is a credit to the town and the police force. Mr. Shuler stated that Building Official Massie states one thing one day, and then the next day, Mr. Massie advises he never stated it. He noted that Mr. Massie writes one thing and does not remember writing it. Mr. Shuler noted that Officer Irvin is not causing him any trouble, and he does not go out of his way to use his badge to harm people. Mayor Crewe indicated that if Mr. Shuler is alleging that Mr. Massie is doing that, he needs to tell the judge. Councilman Jones stated this is what the judge will rule on. Mr. Shuler noted that is correct, and remarked that he

tried to get someone else's attention first. Councilman Jones advised that the Council understands this. Mayor Crewe remarked that the Council understands what Mr. Shuler is stating. Councilman Jones indicated that what he has stated is he has to rely upon Town Manager Sutherland's or Assistant Town Manager Moore's expertise, just like they do with Building Official Massie. Mr. Shuler noted if someone challenges it, it seems like the Council would get the employee and the other person together, all three of them together, and explore the facts. Councilman Jones stated he is sure that Town Manager Sutherland and Assistant Town Manager Moore will have looked at that. Mr. Shuler noted that Mr. Massie told him that from March 30, when he came to his house and did not do anything, but he came back on April 30 and wrote up something, that he could tell that he had made some improvements and had changed some things, and noted he had not been cited for any violations yet. Vice-Mayor King inquired as to what Mr. Shuler changed. Mr. Shuler noted that later, Mr. Massie claimed that he did not state this. Mayor Crewe remarked that if Mr. Shuler changed something so it is not a violation and he did not get written up for that, there is the explanation. Mayor Crewe indicated that if it was not changed, it is not a violation. Mr. Shuler noted that Mr. Massie stated he could tell a change, and he had not done that much. Mayor Crewe stated that if anything had been changed and Mr. Shuler was written up for something that had not changed or written up for a change that is completed, again, everything that happened before that is irrelevant because it either complies or it does not comply, and this is what the judge has to decide. Mr. Shuler noted that the last time he talked to Mr. Massie, he stated he had not done anything. Mayor Crewe advised that whether Mr. Shuler had done anything or not, again, is irrelevant, and it is whether it is completely in or out of compliance. Mr. Shuler inquired of Town Manager Sutherland if Mr. Massie took any pictures of his property. Town Manager Sutherland stated that he is unsure if Mr. Massie went to Mr. Shuler's property or not. Town Clerk Hackler advised that the Town is waiting on a response from Mr. Shuler. He noted that he will check again to see if the e-mail came, but the person only told him about the pictures, and he appreciates the Town bringing this to his attention. Mr. Shuler told the Town Council to please know that if they send him a message and he does not respond, he did not receive it because he always tries to respond. Town Manager Sutherland noted that the e-mail went out that morning after the Public Works Committee meeting. Town Clerk Hackler inquired if Mr. Shuler received the pictures. Mr. Shuler stated that is correct. Town Clerk Hackler advised that she did not receive a response. Mr. Shuler noted that as he has stated, it was someone else's e-mail, and they noted to him that they received the pictures. He inquired if there was some other information that Town Clerk Hackler sent. Town Clerk Hackler inquired if Mr. Shuler is referring to information about Committee meetings. Mr. Shuler stated that is correct. Town Clerk Hackler noted she sent this information. Mr. Shuler indicated that he does not remember the request, and he apologizes and noted when he leaves this meeting, he will have the person check, and he will see if he can see what the request was, and he will try to respond to it. He advised that even if he disagrees, he, at least, tries to show the courtesy of communicating with people. Mayor Crewe noted that the Town also does this. Mr. Shuler indicated that people in this room do communicate, by and large. Mayor Crewe advised that it sounds to him that Mr. Shuler's complaint is with Building Official Massie, and this is what the judge needs to decide, and this is what it comes down to. Mr. Shuler noted that as he has stated, if he goes to his elected officials and they state he has a case or a cause or something that they need to explore and they are going to postpone this a little while to see if there is merit, he would find this acceptable, but if someone will not meet him 50/50, then he is stating they are taking advantage of him when he has adversities already. Mayor Crewe pointed out that Mr. Shuler is entitled to his view, and the Town is entitled to their view, and the views do not match, and that is why they need to tell it to the judge. Mr. Shuler indicated that as he has stated, the reason he knows that he is the one that is losing is because if the Council was a chicken and he was a pig and they were going to open a fast food place, and the Council stated they had a good idea for the menu, bacon and eggs, and he is the hog, he would state to wait a minute and that he does not like this deal and they would state how come, and he would state that eggs for the chicken is a minor contribution, but bacon for him is a major commitment, and this is where everyone is at. Mr. Shuler indicated that the Council members are basically good people, but he is getting harmed in his daily life. He noted that he sometimes drives by and sees Councilman Jones out mowing his yard, but he does not trip him or throw anything at him. Mr. Shuler advised that Building Official Massie has not been to his home for ever how long he has worked for the Town, and then all of a sudden he comes out there because he stated that on his job evaluation, he was told that he has to get tougher on these things, and he was told to go out to his home and find as many things wrong as he could. Mayor Crewe noted that if this is the statement that was made by Mr. Massie, it probably needs to be explored. Town Manager Sutherland indicated that he will explore this. Mr. Shuler inquired as to who is going to explore this. Mayor Crewe remarked that Town staff will explore it, and Town Manager Sutherland is now instructed to get to the bottom of that statement, but, again, it is irrelevant as to whether or not Mr. Massie is in or out of compliance. Mr. Shuler remarked that is correct. Mayor Crewe advised that motivation is not an issue. Mr. Shuler explained that he has been willing to cooperate from the very first, and noted that he stated he is willing to cooperate with all of this. Mayor Crewe indicated that he knows Mr. Shuler has stated this, but it

has not been done. Mr. Shuler remarked that some of it has been done, and asked for the Council to excuse him for raising his voice. Mayor Crewe noted that Mr. Shuler will receive credit for what has been done, and that is what the court is for. Mr. Shuler advised that he thinks differently, and when he is trying to solve the big picture, he cannot "eat the elephant in one swallow, and it is a bite at a time." Mayor Crewe indicated that he understands this and that is why they need to go to court because everyone has been working on this for six years and has not gotten anywhere. Mr. Shuler stated that no one has said anything to him for six years, and if someone had been communicating with him, then he would believe that the Town would have found the trailer in violation. He pointed out that if he does not hear anything for six years, he has to believe that his last communication that he received from the State of Virginia stated that he is not in violation. Mr. Shuler noted that Mayor Crewe understands this if a person does not get a love letter or a hate letter for six years. Mayor Crewe stated that Mr. Shuler apparently interprets State law differently than the Town, and, again, that is what the judge needs to decide. He indicated that the only thing he can tell Mr. Shuler is to check his e-mail that he apparently did not see all of. Mayor Crewe commented that the Town is not going to go back on Mr. Shuler's property and Mr. Massie is not going to go back on Mr. Shuler's property to take pictures unless he gives permission, and if that is what Mr. Shuler wants to do, this can be done, but Building Official Massie will not be back to Mr. Shuler's property to take any pictures. Mr. Shuler noted that the main reason he asked Mr. Massie at the time was so he could be there to see what is going on so he knows. Mayor Crewe stated this is a reasonable request, and he is sure that can be met. He advised that, again, it is not going to be done until Mr. Shuler takes some action to put it in motion. Mr. Shuler remarked that for the Town Council to know this that as long as he does still live there, and as long as it is still his home, he noted he believes in the Constitution more than he does the Town's Zoning Ordinances. Mayor Crewe noted that the Town is bound by the Constitution, and if Mr. Shuler thinks there is something in violation of the Constitution, then raise it, and the judge will tell him. Mr. Shuler stated if he comes to the Council members' homes and touches some of their shrubbery, they would shoot him. Mayor Crewe noted that if Mr. Shuler thinks that the Town did this, then tell the judge. Vice-Mayor King indicated that she wonders why Mr. Shuler was at Mr. Albert Newberry's home that day making pictures. Mr. Shuler noted he will be glad to tell the Council why he was at Mr. Newberry's house if they would like to know. Vice-Mayor King advised that she wanted to know. Mr. Shuler remarked that the Council does not have to agree with him, but he will explain his reasoning. He advised that he came to Mr. Albert Newberry and asked him for the information. He noted that, for instance, on April 30, Building Official Stan Massie wrote him up for ten violations. Mr. Shuler indicated that he inquired of Mr. Massie as to who told him to do this, and Mr. Massie advised that it was Director of Public Safety Newberry. He noted he requested of Mr. Newberry if he alone did this or if there was a higher authority person. Mr. Shuler indicated that Director of Public Safety Newberry stated that he could not tell him, and he would have to ask Town Manager Sutherland. He advised that he asked Town Manager Sutherland, and his answer was that he did not remember and inquired if that is correct. Town Manager Sutherland advised Mr. Shuler that for anyone who goes out, he is responsible for what they do. Mr. Shuler noted that he would state that Town Manager Sutherland told Mr. Massie to go to his home, but that day, he told him that he did not remember. He remarked that he is no dummy. Vice-Mayor King indicated that the Council is not stating that Mr. Shuler is dumb. Mr. Shuler indicated that Mr. Massie visiting his home probably also came from some Council members. Mayor Crewe inquired as to what this has to do with Mr. Shuler being at Mr. Albert Newberry's house when he was not there. Mr. Shuler advised that he will get to this. He stated that he now knew where the request to visit his home came from and inquired as to why. Mr. Shuler remarked that he was told there was an anonymous complaint. He noted that the Town Council has to understand that Mr. Carson Frye was first sent to his home, and he handed it off to Mr. Stan Massie. Vice-Mayor King advised that she wanted to know why Mr. Shuler was at Director of Public Safety Newberry's home. Mr. Shuler remarked that he is leading up to why he was at Mr. Newberry's home. He noted that he asked Mr. Newberry for the information, and he did not provide it. Mr. Shuler indicated that finally a month later, because Mr. Massie would never provide the information, Mr. Newberry wrote up the things he would have to do to be in compliance, but he had already told Building Official Massie to take this matter to court anyway. Vice-Mayor King indicated that she wanted to know why Mr. Shuler was at Mr. Newberry's home. Mr. Shuler stated that he came back and told the Town that he received the information about the court action, and Mr. Massie left him a message on Thursday at 4:40 p.m. that stated, "Coleman, let me know what you have done on those violations because we need to do something about a court date, and I need to know if you have made any progress so I can dispense with it because I don't want to have to go and fill out all of that paperwork if it is not necessary." He reiterated that this was 4:40 p.m. on a Thursday afternoon. Mr. Shuler indicated that he knew the next morning that he was going to be out of town, so he called and left a message at 6:00 p.m. or 7:00 p.m. on Mr. Massie's answering machine and stated, "Hey, I was returning your call. I need to talk to you and whoever about going to court because I just now got the thing from Albert that said about what it would take to be in compliance." Mr. Shuler advised that he received a message on his answering machine when he got back home that evening that was left on his

answering machine about 12:30 p.m. or 1:00 p.m. stating, "Oh, this is Stan. I don't know what's the matter with the machine. Sorry I did not get your message until now, and I done went to the courthouse this morning and we done filed something against you, and besides you couldn't have talked to Albert anyway because he's on vacation." Mr. Shuler pointed out that this proves that no one had any intention of doing the right thing anyway. Vice-Mayor King inquired again of Mr. Shuler as to why he went to Director of Public Safety Newberry's house. Mr. Shuler stated when Mr. Newberry got back, he requested him to please drop this so they could work it out, and Mr. Newberry advised that he would not drop it. He advised that Mr. Newberry would not discuss the merits of the situation, and noted that he would not talk to him until they go to court. Mr. Shuler stated this was acceptable. He noted that Mr. Massie told him that he could find violations at anyone's home. Vice-Mayor King requested Mr. Shuler to tell her why he was at Mr. Newberry's house. Mr. Shuler explained that because Director of Public Safety Newberry was the one that gave the order, he wanted the Town to know that practically speaking, even though Mr. Newberry has a fine mansion and he just has a little shack because of where he got hurt 25 years ago and it does not look that swift, he noted to himself that there are probably some violations at Mr. Newberry's home, so he was going to get some evidence, mark his word, to bring to the Town Council meeting, so they will know that the person who is finding him in violation also does the same thing. He noted that Mr. Newberry lives outside the Town limits so he does not even have to comply with the laws that he is charged with upholding. Mr. Shuler advised that Mr. Massie's situation is the same way, and he does not live in the Town limits. He inquired if the Town Council members have to live within the Town limits or they cannot serve on the Council and inquired if that is correct. Mayor Crewe stated that is correct. Mr. Shuler noted that yet, Mr. Newberry and Mr. Massie can do this holier than thou thing that someone told Mr. Massie to go out and find violations of at his house and it is relative to his job recommendation and he has to find more violations. Vice-Mayor King remarked that it still does not make sense to her as to why Mr. Shuler went to Mr. Newberry's home. Mr. Shuler advised that he has stated it was to see if he could find violations at his home. Vice-Mayor King indicated that this was none of Mr. Shuler's business. Mayor Crewe indicated that Mr. Newberry is not bound by the Town Code because his house is not in the Town limits. Mr. Shuler inquired if he just stated that Mr. Newberry's home is not inside the Town limits. Mayor Crewe and Vice-Mayor King advised that is correct. Mayor Crewe inquired as to why Mr. Shuler would go on someone's property that has nothing to do with this case. Mr. Shuler noted that he thinks in terms of character first. He stated that someone who does not have good character will not follow the rules, and someone that does have good character will follow rules. Mayor Crewe stated that the flipside of this and if Mr. Shuler thinks of character first, what he would think if Mr. Shuler came home and found someone he did not know wandering around his backyard and inquired if he would think character first, and he would think that it must be someone who is going to do him some harm and inquired if that is correct. Mr. Shuler advised that he did not know the answer to this, but he knows that he identified himself, and explained what he was doing. Vice-Mayor King pointed out that Mrs. Newberry had to ask Mr. Shuler. Mayor Crewe indicated that again, there is a very marked difference of what happened that day. Mr. Shuler asked the Town Council if they would tell him what they heard, and he will tell them if it is correct or not. Mayor Crewe indicated that it is irrelevant to his case. He noted that Mr. Shuler can tell this to the judge. He stated that Mr. Shuler thinks he is being persecuted, and he shows up at Mr. Newberry's house and scares his wife and then tells the Council she was not home. Mr. Shuler indicated that Mrs. Newberry was not at home. Vice-Mayor King stated that Mrs. Newberry was at home. Mr. Shuler stated that Mrs. Newberry came home later. Vice-Mayor King inquired as to how long Mr. Shuler had been at Mr. Newberry's home before Mrs. Newberry arrived. Mr. Shuler answered that he had only been there for a couple of minutes before Mrs. Newberry arrived. He advised that there was no vehicle in front of their home, so he parked in front and got out, and he saw some tracks in the grass, and advised that he told Officer Williams that, and he thought that possibly someone was around back. Vice-Mayor King advised Mr. Shuler that he had better not be going to anyone else's home doing that. Mr. Shuler indicated that the point is he did it above board, open, and he went around, and there was not anyone around there. Vice-Mayor King indicated that this did not give Mr. Shuler the right to go on their property, and Mrs. Newberry did not know Mr. Shuler. Councilman Jones indicated that with all due respect, the Council has sat and given Mr. Shuler an hour, and he thinks that is sufficient, and he thinks that now, the Council has asked for certain information to be provided to Mr. Shuler that can be provided, and the Council has also stated that the Council is having to rely upon the knowledge that the Town officials who are responsible for this have, and that the Council is putting their faith in the Town officials' actions. He noted if the Town employees are wrong, the Council will so acknowledge it, but at this stage, he thinks it is time for the Council meeting to adjourn, and they will continue to go to court. Mr. Shuler indicated that he will make another request that if at anytime he comes to the Town office, if they want the conversation recorded, as long as both parties are aware of it, he does not mind. He stated he will at least know what he is stating is the truth. Councilman Jones advised that this is left up to the individual. Mayor Crewe remarked that he thinks this has always been an option. Mr. Shuler thanked the Council for their time.

RE: ADJOURNMENT

There being no further business to be discussed, a motion was duly made, seconded, and carried to adjourn the meeting. (8:30 p.m.).

Trenton G. Crewe, Jr., Mayor

Sharon P. Hackler, CMC, Clerk of Council

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BUDGET AND FINANCE COMMITTEE REPORT

JULY 12, 2004

1. At our last meeting, the Council approved on third and final reading the budget for fiscal year 2004-2005. On the appropriations side of the budget, both for the General Fund and for the Water and Sewer Fund, departmental budgets were approved. This was the first time that monies were appropriated in broad departmental categories. Since the adoption of the budget, we have requested and have now received from the department heads a line item listing of all funding activities within the departmental budgets. Over the next few weeks, we will be evaluating the line items submitted by the various department heads. The purpose in adopting a departmental budget as opposed to reviewing all of the line items is that it identifies to the department head the maximum allocation for the year and then permits the department head to direct appropriations in the most efficient fashion. Since this is the first time we have adopted the budget in this fashion, we will evaluate it as the year goes on to determine if we want to use this type of approach in the development of the budget for the next fiscal year. There is no action required of the Council on this matter.
2. There are certain functions at the Community Center or in one of the Town's parks that require the presence of an off-duty police officer. Generally, these functions involve consumption of alcohol during the activity. Additionally, there are other situations where off-duty police officers are employed such as football games and other large activities. The Town was paying wages earned by the off-duty police officer in a check separate from the normal payroll check. Our auditors advised that it was necessary for us to make

Before proceeding any further on this issue, it is the recommendation of the Public Works Committee that we ask Town Attorney Bob Kaase to review all documents and plats associated with this development. We also think it would be advantageous to the Homeowners Association to retain legal counsel to assist us in evaluating the request. We are sympathetic with the situation in which these property owners find themselves, but we believe any action by the Town will need to be well researched and not be precedent setting for future requests to accept private streets into the Town's system. If this recommendation sounds reasonable to the Council, we will ask Mr. Kaase to proceed with this research.

2. We have received a letter from Star Solutions seeking our input on the proposed improvements to the Interstate 81 Corridor through Virginia. As you may recall, the Virginia Department of Transportation solicited private companies to submit proposals on the design, cost and construction of these improvements on I-81. Two companies submitted proposals, and, ultimately, the Department of Transportation chose to proceed with the proposal submitted by Star Solutions. Star Solutions advises that they have received a great deal of information through the process about general design features of the Corridor improvements, but have not solicited or developed a definitive list of local issues.

As the Council knows, we have responded to inquiries from the Department of Transportation and the private firms on a number of occasions. We think that the issues that we have previously raised are still applicable and that our primary interest is to ensure that any improvements done on the concurrent sections of I-81 and I-77 do not negatively impact our existing businesses. We think there needs to be adequate interchanges and signage that does not impact the economy of the community. There are a number of other issues that we

have supported such as inclusion of light rail into the interstate corridor system including the incorporation of an inland port into Progress Park. If the Council is agreeable, we will respond to Star Solutions with all of these previously identified concerns and suggestions.

William B. Weisiger

H. Judson Lambert

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PUBLIC WORKS COMMITTEE REPORT

JULY 12, 2004

1. We have received a petition from the Old Stage Crossing Homeowners Association seeking the Town to assume the ownership and maintenance of the street known as Old Stage Crossing. In order to understand the nature of this request, it may be helpful to provide a brief historical overview. Old Stage Crossing is the large tract of property situated on the north side of Old Stage Road and south of West Main Street. This development was to be constructed in two phases with the first phase being a series of townhouses and with the second phase being a mix of single family and multiple family dwellings. The developer was insistent that the roads within this parcel of land would be privately owned and controlled by the Homeowners Association. One section of roadway in phase one has been constructed while the remaining portion of roadway in phase one and none of the roadway in phase two were developed. The developer constructed six townhouses along the completed portion of roadway and started construction on two additional units, which have yet to be completed. Since that time, the developer has taken bankruptcy and all unsold property has now been conveyed to another party.

Before making any recommendations concerning this issue, we think there are a number of questions that need to be researched. First, the Homeowners Association documents and associated plats of parcels of properties had certain stipulations about common properties such as the roadway. Secondly, it is unclear how many individuals, corporations, or banks are involved in the ownership of these parcels of land referred to as Old Stage Crossing.

payment for these off-duty wages as a part of normal payroll, which means that FICA taxes had to be taken from the off-duty employment wages. The rates the Town charges for these off-duty officers has now changed from the rate one year ago because of cost of living adjustments given Town employees in the new budget year. As such, it is necessary that we establish the off-duty rate of \$28 per hour for off-duty police officers. It is the recommendation of the Budget and Finance Committee that we establish the rate of \$28 per hour for services provided by an off-duty police officer.

Jacqueline K. King

John W. Jones, Jr.

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