

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE TOWN COUNCIL
HELD IN THE COUNCIL CHAMBERS ON MONDAY, APRIL 12, 2010, 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 Attorney Robert P. Kaase, Police Officer April Evans, Police Officer Tommy Lester, Wayne Quesenberry with *Wytheville Enterprise*, Jack Hunley, Ron Malmberg, Tina Ball, Tommy Hundley, Florecia Jenkins

RE: CALL TO ORDER, QUORUM, PLEDGE

Mayor Crewe called the meeting to order and established that a quorum of Council members was present. The Pledge of Allegiance was led by Vice-Mayor King.

RE: CONSENT AGENDA

Mayor Crewe presented the consent agenda consisting of the minutes of the regular meeting of March 22, 2010. 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 March 22, 2010. 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: PUBLIC HEARING – MALMBERG SPECIAL EXCEPTION PERMIT

Mayor Crewe stated the meeting constituted a public hearing (due notice having been given) to consider the request of Mr. Ronald W. Malmberg dba Powerhouse Services for a special exception permit to conduct a contractors' rental equipment business at 1370 West Reservoir Street between 24th and 26th Streets, in a B-2 Business District. He noted that the Council has in their package the information from the public hearing and the recommendation from the Planning Commission. Mayor Crewe indicated that the Council will take action on this matter later in the meeting. He inquired if there are persons present who wished to address the Council during the public hearing. There being none, he declared the public hearing closed. Mayor Crewe advised that he knows he is moving along rather quickly, and if someone comes in later, he will give them the chance to address the Council. He advised Mr. Malmberg that the Council may have some questions for him later in the meeting.

RE: CITIZENS' PERIOD

Mayor Crewe stated the next agenda item is Citizens' Period. He noted he did not have anyone on the signup sheet who had indicated that they would like to address the Town Council. Mayor Crewe inquired if there are persons present who wished to address the Council during Citizens' Period. There being none, he proceeded with the agenda.

RE: OLD BUSINESS

Under Old Business, Town Manager Sutherland reported the following:

1. The Public Works Committee will not meet this week, next week, or the week after, for a total of three weeks. The Budget and Finance Committee will meet all three weeks on its regular day and time, and Councilman Lambert is invited to attend their meetings.

RE: BUDGET AND FINANCE COMMITTEE REPORT

Councilman Jones, reporting for the Budget and Finance Committee, reported that as the Committee has discussed before, the Town has been given notice by Rural Development of a loan and grant program to perform certain improvements to the water system. He advised that as usual, with any Rural Development funding package, there are certain assurances and actions that must be provided. Councilman Jones indicated that they are as follows: (1) We do hereby certify to Rural Development that the Town has a minimum of 3,598 bona fide, actual users (13,789 equivalent users) on the existing water system, and we authorize the Town Manager to provide a written certification to Rural Development verifying this number of users

actually connected, and using, the existing system (paying monthly bills). (2) We acknowledge the acceptance of Rural Development of the Town's use and income analysis and operating budget for the Town's water system and further acknowledge that we will maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance, debt service, and reserves. (3) The Council does authorize the Town Manager to negotiate and execute an agreement for engineering services for this project. We would note that the cost of engineering services has been scheduled in the project funding. Councilman Jones advised that secondly, the Council would note that Rural Development has provided the Council a resolution that describes the various documents that have to be executed each time the Town has a funding arrangement with them. He explained that with the adoption of this generic resolution, it would eliminate the need to adopt the same assurances over and over for different funding packages. Councilman Jones stated, therefore, it is the recommendation of the Budget and Finance Committee that the Council approve the assurances and actions outlined above as well as the adoption of the generic resolution. A motion was made by Councilman Jones and seconded by Vice-Mayor King to adopt the resolution for Rural Development and also to approve the assurances and to take actions outlined in the three step itemized list in the report for the water system. 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 also reported that the Committee met, last week, with Town Treasurer Mike Stephens to review two amendments that he would propose for the Town Code. He noted that the first amendment suggested by Mr. Stephens would be an amendment to the regulations pertaining to business license taxes that would require the applicant to produce satisfactory evidence that all the delinquent business license, personal property, meals, and transient occupancy taxes owed the Town by the applicant, which had been properly assessed, have been paid. Councilman Jones advised that stated differently, this provision would require payment of all delinquent taxes before being able to obtain a business license. He noted that secondly, Mr. Stephens has proposed that the regulations pertaining to the meals tax be revised to the extent that the meals tax would be imposed on an alcoholic beverage whether it is consumed with the meal or independent of the meal. Councilman Jones stated that currently, the Town's meal tax is only applicable to the alcoholic beverage when consumed as part of the meal. He commented that the Town became aware of the ability to impose the tax on an alcoholic beverage from information received from the Virginia Alcoholic Beverage Control Board. Councilman Jones stated that the Committee believes that both of these revisions to the Town Code are worthwhile and the Committee will prepare an ordinance proposing these changes to be reviewed by the Council at the next meeting. A copy of the Budget and Finance Committee report is attached and made part of these minutes. ~~Crewe, King, Jones, Lambert~~

RE: PUBLIC WORKS COMMITTEE REPORT

Councilman Lambert, reporting for the Public Works Committee, reported that at the last meeting of Council, they considered participation in the Urban Archery Program. He advised that as the Council knows, this program permits deer hunting within the corporate limits by hunters using bows and arrows and crossbows. Councilman Lambert indicated that the Urban Archery Program is administered by the Virginia Department of Game and Inland Fisheries. He stated that the Council had discussed participation in this program for a number of weeks prior to bringing it to the Council for consideration of adoption. Councilman Lambert remarked that it was the Council's understanding that each local governing body could impose any regulations that it deemed appropriate in implementing this program. He stated that there were several restrictions that the Council thought were important in protecting public safety. Councilman Lambert indicated that paramount was the requirement that would make hunters provide evidence that they had certain skills or proficiencies in the use of bows and arrows or crossbows. He stated that secondly, the Council thought it was important that there be a limit on the number of hunters who could participate in the Urban Archery Program within the corporate limits. Councilman Lambert advised that thirdly, the Council thought it was important that any hunter participating in this program should obtain a permit from the Town. He noted that finally, because this program is intended to reduce the deer herd population, the Council thought it important to maintain statistics on the number of animals harvested and that this information should be reported by the hunter to the Police Department. Councilman Lambert remarked that the regulations that were proposed also required that hunters shoot from an elevated position, that they not shoot toward dwellings, etc. He stated the regulations proposed by the Council were sent to the State Department of Game and Inland Fisheries who advised that local governments did not have authority of law to impose those standards that the Council thought were important. Councilman Lambert advised that as such, the Committee, and other members of Council, felt that there was not adequate protection for public safety and, therefore, did not want to participate in the program. He stated that subsequently, the Council did, in fact, give

notice to the Department of Game and Inland Fisheries that the Council had elected not to participate in the program this year. Councilman Lambert advised that in the Council's discussions with the Department of Game and Inland Fisheries, the Council noted that they may want to revisit this program next year to determine if there were ways that the Council could ensure public safety if the program was to be implemented by the Town. He stated that there is no action required of the Council, but the Committee did want to give everyone an update on the status of this program.

Councilman Lambert also reported that in early March, the Town submitted an application to the Virginia Department of Environmental Quality seeking funding to perform certain improvements at the Sewage Treatment Plant that would capture methane gas produced by the digester to produce electricity, which would reduce the Town's utility expenses. He noted it is estimated by the Town's engineers that it could be as much as \$100,000 of electrical and fuel oil savings in a year by performing these improvements. Councilman Lambert indicated that the Town received notice, last week, from the Virginia Department of Environmental Quality that they will be offering the Town a funding package in the amount of \$540,000. He explained that at this point, it is unclear how the Virginia Department of Environmental Quality will administer these funds in terms of it being a forgivable loan or a grant situation. Councilman Lambert stated that normally speaking, when there is a forgivable loan situation, the community will expend funds for the project and then receive reimbursement as the project moves along. He noted that once the project is finalized and operates in the fashion anticipated, the funding for the project is forgiven. Councilman Lambert stated that this is slightly different than a grant program because it requires proof that the improvements perform adequately. He advised that in any event, the Town is pleased to receive this notice, and the Committee will provide the Council with additional information once the Town has met with the Department of Environmental Quality to finalize the terms of the program. A copy of the Public Works Committee report is attached and made part of these minutes. ~~Crewe~~ ^} dE

RE: NEW POLICE OFFICER

Mayor Crewe advised that for those who have not had the opportunity to meet the new police officer, he would like to introduce the Council to Officer April Evans, who is the Town's newest Town police officer and who had to work the Council meeting. Mayor Crewe advised Officer Evans that the Council is glad to have her as an employee. He noted that as he told her earlier today, the Council will do everything they can to be of assistance to her, and if she needs the Council to please not hesitate to contact them.

RE: APPOINTMENT – WALL OF HONOR COMMITTEE

Mayor Crewe stated the next agenda item is to consider an appointment of a member to the Wall of Honor Committee to fill the unexpired term of Ms. Robin Cline whose term expires February 11, 2011. A motion was made by Vice-Mayor King and seconded by Councilman Lambert to appoint Mr. Wayne Roop to 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.

RE: SPECIAL EXCEPTION PERMIT – RONALD W. MALMBERG

Mayor Crewe stated the next agenda item is the issuance of a special exception permit to Mr. Ronald W. Malmberg dba Powerhouse Services to conduct a contractors' rental equipment business at 1370 West Reservoir Street between 24th and 26th Streets, in a B-2 Business District. He advised that the Council did not have anyone to speak during the public hearing. Mayor Crewe advised Ms. Jenkins that he knows she lives in that neighborhood, and he appreciates her attending the meeting. He noted that the recommendation from the Planning Commission is to grant the special exception permit to allow the conduction of a contractor's rental equipment business at 1370 West Reservoir Street subject to three restrictions: (1) The hours of operation be restricted from 8:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to noon on Saturday; (2) The special exception permit would have to be reviewed annually to be sure it is being complied with; (3) If there were a failure to comply with those conditions, the special exception permit could be revoked or rescinded. Mayor Crewe inquired if Mr. Malmberg finds those conditions acceptable and that he can operate within those conditions. Mr. Malmberg noted that the restrictions are acceptable. He advised that originally the hours were going to start at 7:00 a.m., but due to the apartments across the street, they changed the hours to begin at 8:00 a.m. Mayor Crewe thanked Mr. Malmberg for his comments. A motion was made by Councilman Jones and seconded by Councilman Lambert to approve the issuance of a special exception permit to Mr. Ronald W. Malmberg dba Powerhouse Services to conduct a contractors' rental equipment business at 1370 West Reservoir Street between 24th

and 26th Streets, in a B-2 Business District with the following stipulations: (1) The hours of operation shall be restricted to 8:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to noon on Saturday; (2) The special exception permit shall be reviewed annually; (3) Failure to comply with these conditions shall be grounds for rescinding this special exception permit. Mayor Crewe inquired if there are any questions or comments on the motion to issue the special exception permit as indicated with the restrictions so outlined. Councilman Jones stated he would like point out that at the Planning Commission meeting, there were no objections received from the public. He noted he did talk with a neighbor down the street who he knows from working at Pendleton, and they did not have any objections at all to this request. Mayor Crewe inquired if there are any other comments, discussions, or questions 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: SHARON HACKLER BIRTHDAY

Mayor Crewe stated that there is a certain staff member who will celebrate a birthday before the Council meets the next time and will not be attending the next Council meeting. He stated that Town Clerk Hackler has been known to embarrass a few people who had birthdays, and he thinks the Council should sing "Happy Birthday" to Town Clerk Sharon Hackler. The Council proceeded to sing "Happy Birthday" to Town Clerk Sharon Hackler and wished her happy birthday.

RE: ADJOURNMENT

There being no further business to be discussed, a motion was duly made, seconded, and carried to adjourn the meeting (7:15 p.m.).

Trenton G. Crewe, Jr., Mayor

Sharon P. Hackler, MMC, Clerk of Council

BUDGET AND FINANCE COMMITTEE REPORT

APRIL 12, 2010

1. As we have discussed before, the Town has been given notice by Rural Development of a loan and grant program to perform certain improvements to the water system. As usual, with any Rural Development funding package, there are certain assurances and actions that must be provided. There are several actions that are needed to be taken tonight. They are as follows. (1) We do hereby certify to Rural Development that the Town has a minimum of 3,598 bona fide, actual users (13,789 equivalent users) on the existing water system, and we authorize the Town Manager to provide a written certification to Rural Development verifying this number of users actually connected to, and using, the existing system (paying monthly bills). (2) We acknowledge the acceptance of Rural Development of the Town's use and income analysis and operating budget for the Town's water system and further acknowledge that we will maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance, debt service, and reserves. (3) The Council does authorize the Town Manager to negotiate and execute an agreement for engineering services for this project. We would note that the cost of engineering services has been included in the project funding.

Secondly, we would note that Rural Development has provided us a resolution that describes the various documents that have to be executed each time we have a funding arrangement with them. With the adoption of this generic resolution, it would eliminate the need to adopt the same assurances over and over for different funding packages.

Therefore, it is the recommendation of the Budget and Finance Committee that we approve the assurances and actions outlined above as well as the adoption of the generic resolution.

2. Our Committee met, last week, with Town Treasurer Mike Stephens to review two amendments that he would propose for the Town Code. The first amendment suggested by Mr. Stephens would be an amendment to the regulations pertaining to business license taxes that would require the applicant to produce satisfactory evidence that all the delinquent business license, personal property, meals, and transient occupancy taxes owed the Town by the applicant, which had been properly assessed, have been paid. Stated differently, this provision would require payment of all delinquent taxes before being able to obtain a business license. Secondly, Mr. Stephens has proposed that the regulations pertaining to the meals tax be revised to the extent that the meals tax would be imposed on an alcoholic beverage whether it is consumed with the meal or independent of the meal. Currently, the Town's meals tax is only applicable to the alcoholic beverage when

consumed as a part of the meal. We became aware of the ability to impose the tax on an alcoholic beverage from information received from the Virginia Alcoholic Beverage Control Board.

We believe that both of these revisions to the Town Code are worthwhile, and we will prepare an ordinance proposing these changes to be reviewed by the Council at the next meeting.

Jacqueline K. King

John W. Jones, Jr.

PUBLIC WORKS COMMITTEE REPORT

APRIL 12, 2010

1. At the last meeting of Council, we considered participation in the Urban Archery Program. As the Council knows, this program permits deer hunting within the corporate limits by hunters using bows and arrows and crossbows. The Urban Archery Program is administered by the Virginia Department of Game and Inland Fisheries. We had discussed the participation in this program for a number of weeks prior to bringing it to the Council for consideration of adoption. It was our understanding that each local governing body could impose any regulations that it deemed appropriate in implementing this program. There were several restrictions that we thought were important in protecting public safety. Paramount was the requirement that would make hunters provide evidence that they had certain skills or proficiencies in the use of bows and arrows or crossbows. Secondly, we thought it was important that there be a limit on the number of hunters who could participate in the Urban Archery Program within the corporate limits. Thirdly, we thought it was important that any hunter participating in this program should obtain a permit from the Town. Finally, because this program is intended to reduce the deer herd population, we thought it important to maintain statistics on the number of animals harvested and that this information should be reported by the hunter to the Police Department. The regulations that were proposed also required that hunters shoot from an

elevated position, that they not shoot toward dwellings, etc. The regulations as proposed by the Council were sent to the State Department of Game and Inland Fisheries who advised that local governments did not have authority of law to impose those standards that we thought were important. As such, our Committee, and other members of Council, felt that there was not adequate protection for public safety and, therefore, did not want to participate in the program. Subsequently, we did, in fact, give notice to the Department of Game and Inland Fisheries that we had elected not to participate in the program this year. In our discussions with the Department of Game and Inland Fisheries, we noted that we may want to revisit this program next year to determine if there were ways that we could ensure public safety if the program was to be implemented in town. There is no other action required of the Council, but we did want to give everyone an update on the status of this program.

2. In early March, the Town submitted an application to the Virginia Department of Environmental Quality seeking funding to perform certain improvements at the Sewage Treatment Plant that would capture methane gas produced by the digester to produce electricity, which would reduce our utility expenses. It is estimated by our engineers that it could be as much as \$100,000 of electrical and fuel oil savings in a year by performing these improvements. We received notice, last week, from the Virginia Department of Environmental Quality that they will be offering us a funding package in the

amount of \$540,000. At this point, it is unclear how the Virginia Department of Environmental Quality will administer these funds in terms of it being a forgivable loan or a grant situation. Normally speaking, when there is a forgivable loan situation, the community will expend funds for the project and then receive reimbursement as the project moves along. Once the project is finalized and operates in the fashion anticipated, the funding for the project is forgiven. This is slightly different than a grant program because it requires proof that the improvements perform adequately. In any event, we are pleased to receive this notice, and we will provide the Council with additional information once we have met with the Department of Environmental Quality to finalize the terms of the program.

William B. Weisiger

H. Judson Lambert