

**MINUTES
REGULAR COUNCIL MEETING
MONDAY, NOVEMBER 21, 2016
TOWN HALL – 6:00 P.M.**

Council Members:

Kyle Fletcher-Mayor
Kenneth Holbrook
Greg Bailey
Tim Boardwine-Absent
Harry Kelly
Jason Kilgore
Monty Salyer

Jerry Couch-CVTimes

Others Present:

Debora Baca – Clerk/Treasurer
Julie Hensley – Town Attorney
Earl Carter – Public Works Director
Randy Beckner – Mattern & Craig
Bob Harrison – IDA Chairman
Jonathan Johnson – Police Captain
Rob Jones – IDA Hotel Project Admin.
Ben Chafin – Attorney (Town)
Jim Elliott – Attorney (Hills)
Andrea Hicks – Spearhead Trailblazers

The meeting was called to order by Mayor Fletcher at 6:00 p.m.

Councilman Kilgore asked to add “Access Road by Advanced Auto” to new business. Councilman Kelly asked to address New Business Item #4 following public requests to allow Andrea to leave. Councilman Holbrook offered a motion to approve the agenda as amended. The motion was seconded by Councilman Kelly and passed by unanimous roll call vote.

Under public presentations, Andrea Hicks asked the Council for assistance with the Oxbow Ultra Run. They need tents, extension cords, tarps, heaters, tables, power, and the park bathroom opened if possible. Andrea said she is not sure how many people are signed up, but they have runners registered from five different states. They are hoping that the fire ban is lifted before the event takes place, but they want to provide a warming tent to help runners warm up when needed. They are also providing music this year and the boy scouts will be setting up a station on top of the hill. They will be chip timing this year and that validates the run and gives recognition beyond the local level. Andrea expressed appreciation for any monetary donation the town might be able to make. Mayor Fletcher said he doesn’t see a problem providing most of these items. Andrea said top runners will get growlers from Sugar Hill Brewing. Ms. Baca said the IDA donated \$800. Councilman Kilgore asked if a contribution to the Ultra Run could be classified as a recreational promotion rather than a donation. Andrea said the town is on their shirts as a sponsor. Ms. Baca said there is over \$11,000 left in the Advertising/Promo line item under recreation. Councilman Kelly moved to contribute \$800 to the Ultra Run from that line item. The motion was seconded by Councilman Kilgore and passed unanimously.

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Mayor Fletcher made the following announcements:

- 1) Due to the Thanksgiving holiday, Wednesday garbage run will be picked up on Tuesday, Thursday run on Wednesday, and no change for Friday pickup.
- 2) Cautioned residents about low water levels, asking everyone to use water conservatively.
- 3) Reminded residents that Wise County still has a no-burn law in effect. You can be cited if you burn anything while the ban is still in effect. Area fires are about 95% contained.
- 4) The town employee Thanksgiving Brunch will be on Wednesday at 10 a.m.

Councilman Salyer thanked the First Baptist Church and the Ministerial Association for the very nice Thanksgiving community service that took place last night.

A motion was made by Councilman Salyer, seconded by Councilman Kilgore, to approve the minutes of the October 17, 2016 meeting. The motion passed unanimously.

Mayor Fletcher asked for approval of the consent agenda. Regarding the police report, Councilman Salyer asked Captain Johnson what a “liquor law violation” is compared to a drunken violation. Captain Johnson said a “liquor law violation” is a minor in possession of alcohol. Mayor Fletcher asked a question about an abandon vehicle and Captain Johnson said the owner of the vehicle is to have it moved within the next couple of weeks. There was a brief discussion about another vehicle that possibly has people living in it. Captain Johnson said they have checked it out and he doesn’t believe anyone is living in it. Mayor Fletcher asked Captain Johnson to find out who the owner is and notify him the vehicle needs to be moved. Councilman Salyer said if we are going after inoperable vehicles in the community, he will provide him a list that he has been talking about for months. Mayor Fletcher said he will work on it. A motion was made by Councilman Holbrook to approve the consent agenda. Mayor Fletcher asked Randy Beckner to review the Project Report first. Mr. Beckner reported that a meeting was held on the Comprehensive Downtown Project and everyone was represented except VDOT. Another meeting was held with just VDOT and Mattern & Craig. Mr. Beckner said they first planned to bid the whole project at once, but agreed to bid the Thompson & Litton portion separately because it would probably speed up the remainder of the project due to the federal funding in the enhancement grant portion of the project. The West Hills Sewer Project is basically waiting on the Downtown Project. Mr. Beckner said the final plans should be to VDOT within the next two weeks. Mayor Fletcher emphasized the importance of getting VDOT approval and starting on this project. The pre-construction conference has been held on the Water Treatment Upgrade Project and the Notice to Proceed has been issued to McFall Construction. In the meeting with Virginia Department of Health, they have approved the use of contingency funds for additional security items since the project came in under budget. Mr. Beckner asked Earl Carter to compile a list of any items related to security for the water plant. Ms. Baca asked where the agreement with VDH stands so she can file a first pay request on the project. He said we will have to

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follow up with VDH on the financing agreement. Mr. Beckner said the Raw Water Generator Project for the grit chamber is on schedule and specifications will need approval from VDH. A second to Councilman Holbrook's motion to approve the Consent Agenda was offered by Councilman Kelly and the motion carried unanimously.

Old Business:

Councilman Kelly said Gary Barker with MB Contractors has not gotten back with him on a written estimate for the Lyric building roof. He talked about it costing in the range of \$10,000 but since the actual estimate has not been provided, Councilman Kelly moved to table the Lyric Roof until next month. The motion was seconded by Councilman Holbrook and unanimously approved.

Councilman Kelly has not heard back from VDOT on the extra 270 feet of park paving. He talked with The Rogers Group today who estimated it would cost an additional \$2,000 to extend the paving past the gate toward the concessions guardrail. The original estimate for the park paving has already been approved and Ms. Baca asked if he is looking for approval of the additional \$2,000. Councilman Kelly said yes, if Council wants to extend the project. This would make the total cost of the park paving project \$38,430. Councilman Holbrook moved to allocate the additional \$2,000 to complete the project. The motion was seconded by Councilman Kilgore and a roll call vote was taken: Kelly-Aye; Kilgore-Aye; Boardwine-Absent; Holbrook-Aye; Bailey-Aye; Salyer-Aye. The motion carried 5-0.

Councilman Kilgore opened discussion concerning the draft contract for the Project Manager. He asked about the method of payment. Pointing out that this is a contract position, Ms. Hensley said the contract could offer payment on an hourly basis or a project basis, depending on what the council wants. Ms. Hensley asked that when the method of payment is determined to let her know so she can add the necessary language into the contract. Ms. Baca asked who is going to negotiate the proposed contract. Mayor Fletcher said the terms should be negotiated by the full Council. Following further discussion about the terms of the contract and how the council envisions the project manager's role, Councilman Kelly moved to authorize Councilman Kilgore, Councilman Boardwine, and Debbie Baca to negotiate the terms of the agreement with the top ranked candidate. The motion was seconded by Councilman Holbrook. Councilman Salyer asked for clarification that the Project Manager will take his direction from the full Council. All agreed. Ms. Hensley said the draft is a general agreement and the language can certainly be changed when there are more specifics available. Mayor Fletcher asked for a roll call vote on the motion: Salyer-Aye; Bailey-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion carried 5-0.

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In Councilman Boardwine's absence, Councilman Salyer asked that an additional \$500 be donated to St. Paul Elementary School Jr. Beta Club for their trip to Washington, D. C. Following a brief discussion, Councilman Salyer moved to donate the amount as previously donated. Ms. Baca said that amount was \$560, which would make the total contribution \$1,120. The motion was seconded by Councilman Kilgore and passed unanimously.

Town Clerk Debbie Baca explained why the November 21st public hearing for the Hill rezoning request was canceled. Ms. Baca said when the prepared notice for the public hearing was sent to the attorneys, Mr. Elliott expressed his disagreement with language in the notice. Mr. Chafin's office emailed her and ask her to hold on sending the notice for publication. On Friday afternoon, Mr. Chafin's office contacted Ms. Baca and told her to proceed with the notice. The Clinch Valley Times office was closed for the day and Ms. Baca did not get it into the paper office on the following Monday. Ms. Baca advised that she could have advertised the notice to run the week of November 9th and November 16th, but that would have only allowed four days from the second notice until the public hearing date. She noted that the paper is produced and delivered on Wednesday which would have allowed five days, but the date on the paper is Thursday's date, which would only allow four days from the last notice until the public hearing. Mr. Elliott inquired about the notice and pointed out that his clients would be opposed to holding the public hearing without proper public notice. There was discussion between Mr. Chafin's office and Mr. Elliott's office resulting in cancellation of the public hearing. Ms. Baca posted notification of the cancellation at the high school building, town hall building, facebook, and on the website. She then asked the Council to reschedule the public hearing for December 19, 2016 at 7:00 p.m. which is a date and time discussed by both attorneys. Councilman Salyer asked the attorneys present if that was their recommendation. Mr. Chafin said they have discussed setting the public hearing at that time to be held at 3207 Deacon Drive. He advised that there has been objection to the notice that has been prepared. Mr. Chafin provided a copy of the notice they have prepared and recommended approval of the notice to be published as presented. Mr. Elliott said he did not see any reason to change the public notice that was advertised for the Planning Commission public hearing and asked that the same language be used for this public hearing. He stated that the applicants are not asking for coal mining or strip mining, but only to extract the stone necessary to meet VDOT orders. Mr. Elliott stated that he believes the notice is misleading. Mayor Fletcher commented that he is of the opinion that when the Council hires an attorney to represent them, they should take his advice. Upon inquiry by Town Attorney Julie Hensley, Mr. Chafin pointed out that the language used for the public hearing notice is the exact language from the Hills rezoning application. He further stated that the Planning Commission public hearing notice referred to the application advising that the public could come to the town hall to view the application for more information. He again emphasized that the language in the notice he is recommending for approval is precisely what was in the rezoning application. Mr. Elliott said the language being referred to was extracted from the Wise County Zoning for all of the land surrounding the Hills property, but again noted that they are asking for stone removal

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only. Councilman Kilgore asked if this language was in the application. Mr. Elliott replied that it is only a proposal but this language is not what his client is asking for. Again, Mr. Chafin stated that the language is in the application. Councilman Salyer asked if the application could be amended and Mr. Elliott responded that since it has gone to the Planning Commission under one notice that it should not be changed now. Mr. Chafin said the public should be provided with as much information as possible and, in his opinion, the language stated in the notice is part of the application. Following repeated debate of the same points and comments from Councilman Bailey regarding coal mining and mineral rights, Councilman Kelly moved to set the public hearing on December 19, 2016 at 7 p.m. and advertise the notice as recommended by Mr. Chafin. The motion was seconded by Councilman Bailey and a roll call vote was taken: Salyer-Aye; Baiely-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion passed 5-0. Councilman Bailey noted that he will be out of town on the date of the public hearing.

Mayor Fletcher advised that Bill Wallace has been asked to survey the property on Summit Drive to determine if the trees are on private property or town property. Mayor Fletcher has not heard back from him at this time. Mayor Fletcher said one of the trees is right by the fire hydrant which is on town property. Councilman Holbrook moved to table this matter until the survey is complete. The motion was seconded by Councilman Kelly and carried unanimously.

New Business:

Ms. Baca informed Council that Mancil Kiser passed his Class II water test and Doug Jessee passed his Class I water test. The town's past practice has been to give a step increase of \$1.00 per hour when an employee passes up a certification level. She provided the salary range and the salary of both employees once the increase takes effect. A motion was made by Councilman Holbrook, seconded by Councilman Kelly, to give both employees the \$1.00 increase, the same as in the past. Mayor Fletcher asked for a roll call vote: Salyer-Aye; Baiely-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion passed 5-0.

Rob Jones, IDA Project Administrator for the Western Front Hotel Project, discussed the Resolution for the Moral Obligation Bond with Virginia Community Capital Bank (VCC). He reminded Council that we went through the same process a few months ago regarding the loan from VCEDA. Mr. Jones explained that the St. Paul IDA is borrowing the money from VCC as a pass through loan to the hotel developer. The \$3,000,000 construction loan from VCC will complete the financing package for the development of the hotel with the exception of the loan from VRA for \$540,000 approved by the Tobacco Commission. Mr. Jones advised that the language has been drafted according to what VCC requires, but it is a non-binding agreement that provides support of the project and a moral obligation to cover the payment for the IDA in case of default by the developer. He explained that the agreement is a little more detailed than

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just the resolution, but is still a non-binding moral obligation. Bob Harrison said we are only waiting on the financing terms for the historical tax credits and will likely close in about one week. A motion was made by Councilman Salyer to approve the Moral Obligation Agreement to the IDA and VCC. The Town Attorney discussed the language in the Moral Obligation Agreement and the fact that it is a contract, but also pointing out that VCC is requiring approval before the IDA will be approved for the loan. Mr. Harrison discussed all of the required documents and the work that has been put into closing out this loan. Mayor Fletcher pointed out that if this document is not approved, then we don't have a hotel project. Councilman Salyer moved to approve the Moral Obligation Agreement with VCC. The motion was seconded by Councilman Kelly and a roll call vote was taken: Salyer-Aye; Baiely-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion passed 5-0.

After reviewing the proposed Resolution to Support the Recommendations Introduced at the Coalfield Equity Summit, Councilman Holbrook moved to adopt the resolution. The motion was seconded by Councilman Kilgore and passed unanimously.

Next, Ms. Baca address Item #5, 6, 7, 8, and 9, noting that the town previously donated \$100 to Foster Care, Family Crisis, and CASA, and no record of a donation to the Health Wagon last year, and there has not been a donation made to Camp Bethel. Following discussion about whether or not the Health Wagon visits St. Paul, a motion was made by Councilman Kelly to donate \$100 to Foster Care, \$100 to Family Crisis, and \$100 to CASA. The motion was seconded by Councilman Kilgore and approved by a 4-0 roll call vote: Kelly-Aye; Kilgore-Aye; Boardwine-Absent; Holbrook-Aye; Bailey-Aye; Salyer-Abstain. Councilman Salyer abstained because he is Chairman of the Board for Family Crisis.

There was discussion about whether or not the Health Wagon services the St. Paul area. It was suggested that more information be obtained about the services they offer in our area. A motion was made by Councilman Salyer to table Item #8, a request for donation from the Health Wagon, until January. The motion was seconded by Councilman Kelly and passed unanimously.

Item #9, Camp Bethel request for donation, died from lack of a motion.

Police Captain Jonathan Johnson asked Council to consider donating the 2006 Crown Victoria to the Dante Rescue Squad. This vehicle was purchased used from Russell County for \$1.00. The transmission recently went out and the estimate to repair it is between \$1,500 and \$2,000. The vehicle has 180,000 miles on it and Captain Johnson suggested that the radios, lights, etc. be stripped from it and the vehicle be offered to Dante Rescue Squad. Following a question from Councilman Kilgore, the Town Attorney advised that the town can donate the vehicle to another non-profit. A motion was made by Councilman Kelly, seconded by Councilman Kilgore, to strip the vehicle and donate it as requested by Captain Johnson. The motion carried unanimously.

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Captain Johnson requested that some of the town employees be allowed to donate PTO time to Police Chief Bo Phillips. Chief Phillips has been off for an extended period of time and has exhausted his PTO. He was 22 hours short last payday, and Captain Johnson is asking to be allowed to donate those hours and allow other town employees to donate some hours. There was a brief discussion about the town policy allowing employees to give PTO time to other employees. Ms. Baca said that, in the past, it has been donated hour for hour regardless of the two employees' rates of pay. Councilman Salyer moved to authorize Captain Johnson to donate the 22 hours of PTO time pursuant that the exchange is considerate of Captain Johnson's rate of pay. Councilman Holbrook asked if the exchange were from a higher paid employee to a lower paid employee, would we ask for the same requirement. Ms. Baca said it can be converted either way and the PTO liability is based on the individual rate of pay. Chief Phillips said he knows that the policy says Council may approve it, but it has been hour for hour in the past and he feels that the Council is treating him differently. Ms. Baca pointed out that the only other request brought before the Council was Mike Jessee. Ms. Hensley said it needs to be spelled out who is offering how many hours and it should be in writing. Councilman Salyer rescinded his motion. Councilman Kilgore moved to allow the employees to give Bo Phillips PTO hours as it has been done in the past. The motion was seconded by Councilman Holbrook and passed unanimously. Ms. Baca recommended that the Council address this issue in the policy sometime in the near future. Mayor Fletcher asked that the language in the policy be placed on the January agenda.

Councilman Kilgore asked that the dip in the access road by Advanced Auto be repaired. Councilman Kelly said he would ask the Rogers Group to donate the work to do the repairs.

A motion was made by Councilman Holbrook to enter into Closed Session to discuss Personnel under VA Code Section 2.2-3711(A)(1), Legal under VA Code Section 2.2-3711(A)(7), and Contracts under VA Code Section 2.2-3711(A)(30). A roll call vote was taken: Salyer-Aye; Bailey-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion passed by a vote of 5-0.

Councilman Holbrook moved to enter back into Open Session. The motion was seconded by Councilman Kilgore and a roll call vote was taken: Salyer-Aye; Bailey-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion passed by a vote of 5-0.

Councilman Holbrook offered a motion to certify that the only matters discussed in Closed Session were Personnel under VA Code Section 2.2-3711(A)(1), Legal under VA Code Section 2.2-3711(A)(7), and Contracts under VA Code Section 2.2-3711(A)(30). The motion was seconded by Councilman Kelly and a roll call vote was taken: Salyer-Aye; Bailey-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion passed 5-0.

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Councilman Kilgore moved to accept Chief Bo Phillips resignation with his last day being December 16, 2016 and appoint Captain Jonathan Johnson as the Interim Chief of Police until the position is permanently filled. He further moved to allow Chief Phillips to purchase his weapon for \$1.00 pursuant to VA Code Section 59.1-148.3. The motion was seconded by Councilman Kelly and a roll call vote was taken: Salyer-Aye; Bailey-Aye; Holbrook-Aye; Boardwine-Absent; Kilgore-Aye; Kelly-Aye. The motion passed 5-0.

Following brief comments about advertising the position of Police Chief, Ms. Baca said she would get the position advertised.

Councilman Kelly moved to adjourn. The motion was seconded by Councilman Salyer and passed by unanimous vote.

Mayor Fletcher adjourned the meeting.

Mayor

Clerk