



AGENDA

WYTHEVILLE TOWN COUNCIL MEETING

MONDAY, JUNE 26, 2023 AT 5:00 PM

MUNICIPAL BUILDING - 150 EAST MONROE STREET
WYTHEVILLE, VA 24382

1. **INVOCATION** — VICE-MAYOR CATHY D. PATTISON
2. **CALL TO ORDER** — MAYOR BETH A. TAYLOR
3. **ESTABLISHMENT OF QUORUM** — MAYOR BETH A. TAYLOR
4. **PLEDGE OF ALLEGIANCE** — COUNCILWOMAN CANDICE N. JOHNSON
5. **APPROVAL OF AGENDA**
6. **6:00 P.M. RECESS (if necessary)**
7. **CONSENT AGENDA**
 - A. Minutes of the regular meeting of June 12, 2023 **(requires motion and vote)**
8. **PUBLIC HEARINGS, REQUESTS, RESOLUTIONS, COUNCIL DECISIONS**
 - A. **Consider the request of HOPE, Incorporated to close a public alley running parallel to West Monroe Street and West North Street, between 14th and 16th Streets, and to consider waiving the payment for the value of the alley**
 1. Staff Report/Presentation by Planning Director John Woods, including the report from the Public Works Committee
 2. Public hearing to receive comments regarding the closure of a public alley
 3. Consideration by the Town Council of Ordinance No. 1425, an ordinance discontinuing and vacating an alley running parallel to West Monroe Street and West North Street, between 14th Street and 16th Street, in the Town of Wytheville, Virginia, on first reading **(requires motion and roll call vote)**
 4. Consideration by the Town Council to waive the payment for the value of the alley **(requires motion and roll call vote)**
 - B. **Consider appropriations to the Fiscal Year 2022-23 Budget**
 1. Staff Report/Presentation by Town Treasurer Michael Stephens
 2. Public hearing to consider the appropriations to the Fiscal Year 2022-23 Budget

2. Consideration by the Town Council to approve the budget appropriations **(requires motion and roll call vote)**

C. Consider Ordinance No. 1422, the Budget Ordinance for Fiscal Year 2023-2024, on third and final reading

1. Staff Report/Presentation by Town Manager Brian Freeman

2. Consideration by Town Council to adopt Ordinance No. 1422 on third and final reading **(requires motion and roll call vote)**

D. Consider Ordinance No. 1424, an ordinance amending and reenacting Chapter 12. Solid Waste Collection and Disposal, Article VI. Nuisances on Premises, Removal of Weeds, Mowing, Etc., and Clutter, Division 2. Removal of Weeds, Mowing, Etc., by amending Section 12-92. Excessive Vegetation; Overgrowth, and by adding Section 12.94. Mowing Exemptions, of the Code of the Town of Wytheville, Virginia, on first and final reading

1. Staff Report by Assistant Town Manager Elaine Holeton

2. Consideration by Town Council to approve Ordinance No. 1424 on first and final reading **(requires motion and roll call vote)**

E. Consider Ordinance No. 1426, an ordinance repealing and replacing Chapter 14. Taxation, Article IV. Cigarette Tax, of the Code of the Town of Wytheville, Virginia, on first reading

1. Staff Report/Presentation by Town Manager Brian Freeman

2. Consideration by the Town Council to approve Ordinance No. 1426, an ordinance repealing and replacing Chapter 14. Taxation, Article IV. Cigarette Tax, of the Code of the Town of Wytheville, Virginia, on first reading **(requires motion and roll call vote)**

F. Consider adopting a resolution recognizing the George Wythe High School Girls Tennis Team

1. Staff Report/Presentation by Town Manager Brian Freeman

2. Consideration by the Town Council to adopt the resolution **(requires motion and vote)**

G. Consider the issuance of hunting permits on Town-owned land on Sand Mountain

1. Staff Report/Presentation by Town Manager Freeman

2. Consideration by the Town Council to approve/deny the issuance of hunting permits **(requires motion and vote)**

9. CITIZENS' PERIOD

10. NEW BUSINESS

11. REPORTS

A. Staff Report(s) - TOWN MANAGER BRIAN FREEMAN

B. Upcoming Meetings - TOWN CLERK SHERRY G. CORVIN

12. OTHER BUSINESS

A. Review of upcoming vacancies on Town Committees/Boards

1. Staff Report/Presentation by Town Clerk Sherry Corvin

B. Council Member Time

1. Continued discussion regarding an Annual September 11 Commemoration Event - MAYOR BETH A. TAYLOR

C. Miscellaneous

(1) Council Committee Reports; (2) July 2023 Town Council Meeting Calendar; (3) Other

13. ADJOURNMENT

7-A



MINUTES

WYTHEVILLE TOWN COUNCIL MEETING

MONDAY, JUNE 12, 2023 AT 5:00 PM
MUNICIPAL BUILDING - 150 EAST MONROE STREET
WYTHEVILLE, VA 24382

1. **UNAPPROVED MINUTES**

RE: ATTENDANCE

MEMBERS PRESENT:

Mayor Taylor, Vice-Mayor Pattison, Councilwoman Holly Atkins, Councilman Gary Gillman, Councilwoman Candice Johnson

MEMBERS ABSENT:

None

OTHERS PRESENT:

Town Manager Brian Freeman, Assistant Town Manager Elaine Holeyton, Town Clerk Sherry Corvin, Town Treasurer Michael Stephens, Police Chief Joel Hash, Police Officer Kyle Counts, Computer Operations Manager Ron Jude, Assistant Town Engineer Billy Anderson, Downtown Wytheville, Inc. Assistant Charlie Jones, Alfred Rosenbaum, Linda Rosenbaum, Leslie Woodzell, James Cohen, Steve Dinero, Denise Davis, Glenda Crockett-Eans, Kerry Eans

2. **RE: CALL TO ORDER**

Mayor Taylor called the meeting to order.

3. **RE: ESTABLISHMENT OF QUORUM**

Mayor Taylor established that a quorum of Council members was present.

4. **RE: PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Vice-Mayor Cathy Pattison.

5. **RE: APPROVAL OF AGENDA**

Mayor Taylor advised that the next agenda item is the Approval of Agenda. She inquired if there was a motion to approve the agenda as presented.

Motion made by Councilman Gillman, Seconded by Vice-Mayor Pattison. Mayor Taylor inquired if there was any discussion on the motion. There being none, the motion was

approved with the following voting results, by roll call vote: Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

6. RE: SCHEDULED RECESS AT 6:00 P.M.

Mayor Taylor advised that for informational purposes, the agenda includes a 6:00 p.m. scheduled recess, if necessary.

7. RE: CONSENT AGENDA

A. Mayor Taylor presented the consent agenda consisting of the minutes of the regular meeting of May 22, 2023. She inquired if there was a motion to approve the minutes as presented.

Motion made by Vice-Mayor Pattison, Seconded by Councilwoman Atkins.
Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

8. RE: PUBLIC HEARINGS, REQUESTS, RESOLUTIONS, COUNCIL DECISIONS

A. RE: PUBLIC HEARING - GENERAL OBLIGATION BOND FOR WATER AND SEWER IMPROVEMENTS

Mayor Taylor advised that the next agenda item is to consider the issuance and sale of a General Obligation Bond for improvements to the water and sewer facilities. She stated that Town Manager Freeman would give the Council more information regarding the bond. Town Manager Freeman noted that as a part of the development of the Town's five-year Capital Improvements Plan and the Fiscal Year 2023-24 Budget, Staff has identified several necessary water and sewer projects. He advised that these projects will require long-term financing, and that Staff has engaged with VML/VACo Finance. Town Manager Freeman stated that they have recommended Webster Bank National Association for the issuance of the General Obligation Bond in an amount that will not exceed \$2,470,000.

Mayor Taylor advised that the meeting constituted a public hearing (due notice having been given) to consider the issuance and sale of a General Obligation Bond in an amount not to exceed \$2,470,000, for improvements to the water and sewer facilities. She inquired if there were any citizens present who wished to address the Council during the public hearing. There being none, she declared the public hearing closed.

Mayor Taylor advised that the resolution authorizing the issuance and sale of a General Obligation Bond and the execution and delivery of certain related documents is before the Town Council. She inquired if there was a motion to adopt a resolution authorizing the issuance of a General Obligation Bond and to execute and deliver certain related documents. Motion made by Councilman Gillman, Seconded by Councilwoman Atkins. She inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting results, by roll call vote: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

B. RE: STREET CLOSURE REQUEST - DTW, INC. JULY 4TH CELEBRATION AND STREET FESTIVAL

Mayor Taylor advised that the next agenda item is to consider a request of Downtown Wytheville, Inc. to close Main Street between Fourth Street and Seventh Street, from 6:00 a.m. to 11:00 p.m., for the Downtown Wytheville July 4th Celebration and Street Festival. She stated that Assistant Town Manager Holeton will give the Council more information regarding this event. Assistant Town Manager Holeton noted that the Safety and Events Committee met and reviewed this request and would recommend that it be approved. She noted that she hopes the Council will consider approving this request. Assistant Town Manager Holeton stated that she would be glad to answer any questions of the Council. Councilwoman Atkins inquired if Staff has looked into possibly changing the guidelines stating that applications have to be made at least 60 days prior to the event. Assistant Town Manager Holeton advised that the Council will be reviewing a new event policy later in the meeting that includes street closures. Mayor Taylor inquired if there was a motion to approve the street closure request of Downtown Wytheville, Inc. to close Main Street between Fourth Street and Seventh Street, from 6:00 a.m. to 11:00 p.m., for the Downtown Wytheville July 4th Celebration and Street Festival.

Motion made by Councilman Gillman, Seconded by Councilwoman Atkins.
Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

C. RE: TRAFFIC CONTROL ASSISTANCE REQUEST - WYTHEVILLE TREASURER'S OFFICE

Mayor Taylor advised that the next agenda item is to consider the request of the Wytheville Treasurer's Office for the Wytheville Police Department to provide traffic control on Tazewell Street at the Willow Brook Jackson/Umberger Homestead Museum property on Sunday, June 18, 2023, from 5:00 p.m. to 6:00 p.m. and from 9:00 p.m. to 10:00 p.m., for a State Treasurer's Meeting Social Event. She stated that Assistant Town Manager Holeton will give the Council additional information regarding this event request. Assistant Town Manager Holeton advised that traffic control will only be needed for loading and unloading buses for the State Treasurer's Meeting Social Event. She commented that this event was discussed at the Safety and Events Committee meeting, and it would be their recommendation that it be approved. Councilwoman Atkins inquired if electronic message boards could be set up. Assistant Town Manager Holeton commented that Staff can request that those signs be set up. Mayor Taylor stated that she feels like the message boards should be set up. She inquired if there was a motion to approve the request of the Wytheville Treasurer's Office for the Wytheville Police Department to provide traffic control on Tazewell Street at the Willow Brook Jackson/Umberger Homestead Museum property on Sunday, June 18, 2023, from 5:00 p.m. to 6:00 p.m. and from 9:00 p.m. to 10:00 p.m., with the addition of having Staff place electronic message boards in the area.

Motion made by Vice-Mayor Pattison, Seconded by Councilwoman Johnson.
Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

D. RE: SUBDIVISION VARIANCE REQUEST - ASBURY LANE SUBDIVISION

Mayor Taylor advised that the next item on the agenda is to consider a Subdivision Variance Request for the Asbury Lane Subdivision. She stated that Assistant Town Engineer Anderson will give the Council more information regarding this request. Assistant Town Engineer Anderson noted that the subdivision applicant has requested a variance to three articles of the Subdivision Ordinance. He stated that the first variance is for the paved surface width, and the current ordinance requires a paved surface width of 30 feet, and that the current paved surface width is 18 feet. He advised that the Virginia Department of Transportation (VDOT) has viewed this surface and has given approval to accept the current 18 feet. Assistant Town Engineer Anderson noted that the second variance is for curb and gutter, and that currently there is no curb and gutter along Holston Road that connects with Asbury Lane. He advised that the applicant is requesting a variance to waive the installation of curb and gutter. Assistant Town Engineer Anderson stated that the third variance is for street right of way width. He remarked that the current Subdivision Ordinance requires a minimum width of 50 feet, however, VDOT give approval to accept the proposed right of way width of 40 feet. Mayor Taylor inquired if there was a motion to approve the Subdivision Variance Request for the Asbury Lane Subdivision. A motion was made by Vice-Mayor Pattison and seconded by Councilman Gillman to approve a Subdivision Variance Request for the Asbury Lane Subdivision to include a pavement width of 18 feet, waiver of curb and gutter installation and a right of way width of 40 feet. Mayor Taylor inquired if there was any discussion on the motion. Councilwoman Johnson inquired if there is curb and gutter at the King Hills Subdivision in town. Assistant Town Engineer Anderson stated that there is not. Councilwoman Johnson inquired if the Town would be able to provide curb and gutter for the King Hills Subdivision, to be fair with the Asbury Lane Subdivision. Town Manager Freeman stated that the applicants for the Asbury Lane Subdivision are requesting a variance that waives the installation of curb and gutter. He remarked that the King Hills Subdivision made the same request. A brief discussion ensued regarding curb and gutter in the Asbury Lane and King Hills Subdivisions. There being no further discussion, the motion was approved with the following voting results, by roll call vote: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

E. RE: DEPARTMENT OF MUSEUMS TAKE A BREAK FROM THE INTERSTATE ROAD MARKET REQUEST

Mayor Taylor advised that the next agenda item is to consider the request from the Department of Museums for the Take a Break from the Interstate Road Market scheduled for July 28-30, 2023. She stated that Town Manager Freeman will give the Council more information regarding this request. Town Manager Freeman noted that a letter from the Department of Museums Director Gerlich and an agenda information page that summarizes the event is included in the Council's meeting packet. He advised that this allows citizens to have a yard sale for three days, instead of the two-day maximum that the Town Code allows. A brief discussion was held regarding the Town Code yard sale guidelines. Mayor Taylor inquired if there was a motion to approve the request of the Department of Museums for the Take a Break from the Interstate Raod Market that is scheduled for July 28-30, 2023.

Motion made by Councilman Gillman, Seconded by Vice-Mayor Pattison.

Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

F. RE: TRAFFIC CONTROL ASSISTANCE REQUEST - FAST AND FIORINI METRIC CENTURY BIKE RIDE

Mayor Taylor advised that the next item on the agenda is to consider a request from HOPE, Incorporated for the Wytheville Police Department to provide traffic control assistance on various streets in town for The Fast and Fiorini Metric Century Bike Ride event on Saturday, June 17, 2023, from 7:00 a.m. to 2:00 p.m. She stated that Assistant Town Manager HOLETON will give the Council more information regarding this request. Assistant Town Manager HOLETON advised that HOPE is requesting a rolling street closure for bikers to leave town, and that the Police Department has agreed to assist HOPE with this request. She noted that the Safety and Events Committee has approved for the Police Department to assist with this request. Mayor Taylor inquired if there was a motion to approve the request of HOPE, Incorporated for the Wytheville Police Department to provide traffic control assistance on various streets in town for The Fast and Fiorini Metric Century Bike Ride event on Saturday, June 17, 2023, from 7:00 a.m. to 2:00 p.m.

Motion made by Councilwoman Johnson, Seconded by Councilwoman Atkins.

Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson.

9. RE: CITIZENS' PERIOD

Mayor Taylor advised that the next agenda item is Citizens' Period. She inquired if there was anyone attending the meeting who wished to address the Council during Citizens' Period, and, if so, she would ask that anyone wishing to speak come to the podium and state their name and address for the record.

Mr. Steven Dinero was recognized and stated that he resides at 1473 Slate Spring Branch Road in Wytheville. He noted that he is new to Wytheville, and that he is the new director of the Edith Bolling Wilson Birthplace Museum. Mr. Dinero remarked that he attended the meeting to introduce himself, and to thank everyone for the warm welcome to Wytheville. The Council members thanked Mr. Dinero for his comments. Mayor Taylor then proceeded with the agenda.

10. RE: NEW BUSINESS

Mayor Taylor advised that the next agenda item is New Business. Town Manager Freeman stated that he had no New Business to report at this time.

11. RE: OLD BUSINESS

A. RE: ORDINANCE NO. 1423 - REAL PROPERTY TAX RATE

Mayor Taylor advised that the next item on the agenda is continued discussion regarding Ordinance No. 1423, an ordinance setting forth the Real Property Tax Rate for the Town of Wytheville, Virginia. She stated that Town Manager Freeman will give

the Council more information regarding the ordinance. Town Manager Freeman noted that Ordinance No. 1423 was under consideration at the last Town Council meeting, and that the Council voted 3-2 in favor of increasing the Real Property Tax Rate. He advised that in Virginia, a town may only impose a tax after a two-thirds vote of the Council which would require four votes to impose. He then presented more information regarding setting the Real Property Tax Rate. Councilwoman Atkins commented that she had previously mentioned a \$0.02 increase for the Real Property Tax Rate, and after listening to a citizen at the last meeting, she would like to propose a \$0.015 increase. Town Manager Freeman advised that a motion would need to be made to increase the tax rate by \$0.015 per \$100 valuation. A motion was made by Councilwoman Atkins and seconded by Councilman Gillman to approve a Real Property Tax Rate increase of \$0.015 per \$100 valuation, and to approve on first and final reading Ordinance No. 1423 setting the Real Property Tax Rate for the Town of Wytheville as \$.20 per \$100 valuation. Mayor Taylor inquired if there was any discussion on the motion. Councilwoman Johnson commented that she would like to increase the Lodging Tax instead of the Real Property Tax Rate, due to Wythe County's last property reassessment. Town Manager Freeman stated that this could be done if the Council would like to do so. Discussion continued regarding the Real Property Tax Rate, Lodging Tax and how these rates affect the budget. Mayor Taylor inquired if there was any further discussion regarding the motion. There being none, the motion was approved with following voting results, by roll call vote: Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman. Voting Against: Councilwoman Johnson.

12. RE: REPORTS

A. RE: STAFF REPORT(S)

Town Manager Freeman presented the Staff Report, and a copy is attached and made part of the minutes.

13. RE: OTHER BUSINESS

A. RE: ANNUAL SEPTEMBER 11 COMMEMORATION EVENT

Mayor Taylor advised that the next agenda item is the discussion regarding an Annual September 11 Commemoration Event. She stated that this is an annual breakfast event held by local churches that has taken place on September 11 for the First Responders, which include the Wytheville Police Department, the Wytheville Fire Department, the Wythe County Sheriff's Department and the Virginia State Police. Mayor Taylor continued to discuss why the ladies of the local churches need help with the event. She discussed options for future September 11 events and the Wytheville Town Council helping with the event. Mayor Taylor remarked that the Town recognizes Veterans on Veteran's Day, and she thought it would be nice for the Town Council to help with this event. She commented that with the local churches already making breakfast, and the Town could possibly provide a speaker. Mayor Taylor remarked that she would ask the Council members to think about this, and if there are questions, to feel free to reach out to her. Mayor Taylor proceeded with the agenda.

B. RE: TRAFFIC CONTROL AND STREET CLOSING POLICY

Mayor Taylor advised that the next agenda item is the introduction of the Traffic Control and Street Closing Policy. She stated that Assistant Town Manager Holeton will review the proposed Policy with the Council. Assistant Town Manager Holeton stated that the Council package included a brief Staff Report which outlines how this proposed policy evolved. She continued to review the Staff Report with the Council. Assistant Town Manager Holeton stated that there is not a strict deadline to pass the Traffic Control and Street Closing Policy. She noted that she recommends the Council members review the Policy, and to call or email her if they have any questions about the Policy. Councilwoman Johnson inquired if it is possible for Council members to serve on the Safety and Events Committee. Assistant Town Manager Holeton stated that should be fine if the Council allows. A brief discussion was held regarding Council members being able to serve on the Safety and Events Committee. It was the consensus of the Council to allow Councilwoman Johnson to serve on the Safety and Events Committee. Assistant Town Manager Holeton noted that one of the concerns she heard earlier was about the amount of time from when the application is submitted to when it is reviewed. Discussion was held regarding the concerns of the timeline between the application submission, application review and other concerns of the Council members. Councilwoman Johnson advised that she would like to for a Work Session to be held to discuss the Traffic Control and Street Closing Policy further. Assistant Town Manager Holeton stated that Staff will schedule a Work Session after the Fiscal Year 2023-24 Budget process is completed.

C. RE: COUNCIL MEMBER TIME

Mayor Taylor advised that the next agenda item is Council Member Time. She inquired if Councilman Gillman had anything to discuss during Council Member Time. Councilman Gillman stated that he did not.

Mayor Taylor inquired if Vice-Mayor Pattison had anything to discuss during Council Member Time. Vice-Mayor Pattison stated that she did not have anything to discuss at this time.

Mayor Taylor advised that she had nothing to discuss during Council Member Time.

Mayor Taylor inquired if Councilwoman Atkins had anything she would like to discuss during Council Member Time. Councilwoman Atkins stated that she would like to thank Town staff for the replacement of the Linkous sign on Fourth Street.

Councilwoman Atkins stated that she had spoken with Town Manager Freeman previously about a speeding issue on Fairview Road. Town Manager Freeman advised that he will talk to Police Chief Hash about this issue.

Councilwoman Atkins noted that she would like for Staff to check into putting reflective stickers on Town trucks, emergency vehicles, etc. to, hopefully, prevent accidents. Town Manager Freeman stated he would look into this matter.

Councilwoman Atkins stated that she did not like the fact that the Town's trash truck did not pass inspection and that Staff is still using it. Town Manager Freeman

commented that the trash truck Councilwoman Atkins is referring to is not used often. He noted that the Town's usual trash truck is at Western Branch in Roanoke being repaired. Town Manager Freeman advised that Staff is currently using the Town's backup truck. A brief discussion continued regarding the trash truck that Staff is currently using. Mayor Taylor recognized Public Works employee Mr. Alfred Rosenbaum. Mr. Alfred Rosenbaum stated that he has been a Town employee for 36 years, and that the trash truck Councilwoman Atkins is referring to is a 1989 International trash truck. He discussed the condition of the backup trash truck that is currently being used. Councilwoman Johnson noted that she would like to thank Mr. Rosenbaum for discussing the condition of the truck with the Council members. She stated that she did not know what repairs needed to be made to this truck, but she wants to make sure that these issues are resolved quickly for the safety of the employees. A brief discussion continued regarding the use of the trash truck. Town Manager Freeman stated that he will look into this matter.

Mayor Taylor inquired if Councilwoman Johnson had anything to discuss during Council Member Time. Councilwoman Johnson stated that she would like to thank Town Manager Freeman for contacting her regarding her concerns for Monroe Street.

RE: RECESS

It was the consensus of the Council to take a short recess. (6:09 p.m.)

RE: RECONVENE

The Town Council reconvened the meeting. (6:17 p.m.)

14. RE: CLOSED MEETING

- A. Mayor Taylor stated that it will now be necessary for the Council to go into a Closed Meeting pursuant to section 2.2-3711 (A.)(1.) for discussion regarding the Town Attorney position. She inquired if there was a motion to go into a Closed Meeting. Motion made by Councilwoman Johnson, Seconded by Councilman Gillman. Mayor Taylor inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting results, by roll call vote: Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson. (6:18 p.m.)
- B. A motion was made by Councilman Gillman and seconded by Councilwoman Johnson to certify the Closed Meeting held pursuant to section 2.2-3711 (A.)(1.) for discussion regarding the Town Attorney position, and that only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification applies, and only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Council.

The motion was approved with the following voting results, by roll call vote: Voting Yea: Mayor Taylor, Vice-Mayor Pattison, Councilwoman Atkins, Councilman Gillman, Councilwoman Johnson. (7:22 p.m.)

15. RE: PUBLIC HEARINGS, REQUESTS, RESOLUTIONS, COUNCIL DECISIONS
(CONTINUED)

Mayor Taylor advised that the next item on the agenda is to consider contracts for legal services. Town Manager Freeman stated that following the Closed Meeting that was held, Staff will continue to evaluate potential offers for legal services and report back to the Town Council.

16. RE: ADJOURNMENT

There being no further business to be discussed, a motion was duly made, seconded and carried to adjourn the meeting. (7:24 p.m.)

Beth A, Taylor, Mayor

Sharon G. Corvin, CMC, Town Clerk

8-A

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Request of HOPE, Inc. for an Alley Closing

SUMMARY:

A request has been received from HOPE, Incorporated to close an alley running parallel to West Monroe Street and West North Street, between 14th and 16th Streets, and to consider waiving the payment value of \$14,229.00 for the alley. Please find attached a report from the Public Works Committee, who was appointed as the viewers of the property. Planning Director John Woods will make the presentation on this request.

Recommended Action

There will be two motions and two votes on this request. The first action will be to consider Ordinance No. 1425 to approve/disapprove the closing of the alley. If the Council desires, this ordinance can be passed on first and final reading, and it will require a roll call vote.

The second action will be to consider waiving the payment for the value of the alley, which will require a motion and roll call vote.

Staff Report: Request for Alley Vacation – VACA-23-1

Application by Helping Overcome Poverty’s Existence, Inc. (HOPE Inc.)

Block Bounded by 14th, 16th, Monroe, and North Streets

Prepared for Town Council Meeting held June 26, 2023.

An application and letter of request has been received from Helping Overcome Poverty’s Existence, Inc. requesting the vacation of an alley located in the block bounded by North 14th Street, West North Street, North 16th Street, and West Monroe Street. HOPE Inc. is the current owner of all parcels in the block. It is the intent of HOPE Inc. to submit a lot line revision plat that will enable construction of workforce housing with tentative plans to construct 30 units that will fully comply with the requirements of the R-3 Residential Zoning District guidelines. This staff report will cover existing site conditions relevant to the alley vacation request.

Existing Site Conditions



- The image above shows the full block located in the Trinkle Addition section of the Town of Wytheville. The darker shaded area shows the location of the existing alley.

Staff Report: Request for Alley Vacation – VACA-23-1

- The block is bounded by Monroe Street to the southeast, North Street to the northwest, 14th Street to the northeast, and 16th Street to the southwest.



- The site consists of 16 parcels currently under the common ownership of Helping Overcome Poverty's Existence, Inc. (HOPE Inc.). 8 of the 16 parcels front along Monroe Street and 8 parcels front along North Street. The alley in question separates the two groups of 8 parcels.
- The image above shows the 16 parcels, with 8 parcels to the lower right fronting Monroe Street and 8 parcels to the upper left fronting North Street. The alley can be seen separating the two groups of 8 parcels.

Staff Report: Request for Alley Vacation – VACA-23-1



- The images above show the single-family home located on the two parcels closest to the Monroe Street/14th Street intersection. The home is vacant since the sale of the property was completed. There are several small sheds, barns, woodsheds, and similar accessory structures located on the site. The existing home and accessory structures will be removed from the site prior to construction of new workforce housing units.

Staff Report: Request for Alley Vacation – VACA-23-1



- The image above shows how the block has been mowed and maintained historically. Approximately one quarter of the block has been regularly mowed as a lawn area around the existing residence. The remaining portion of the parcel has been cut for hay production by a local farmer. The cutting of hay has kept the parcel in compliance with the Town mowing ordinance. The image above shows the division between the portion of the site that has been maintained as a lawn and the portion that receives periodic mowing.
- On May 30, 2023, an Exemption from Mowing Permit was granted for the property which is mowed during the growing season for hay production.

Staff Report: Request for Alley Vacation – VACA-23-1

Ownership of the Alley



● = Site Location

The subdivision of the Trinkle Addition to the town of Wytheville of which this is a plat into blocks numbered from 1 to 128 from 33 to 37 from 38 to 42 and from 43 to 63 is hereby confirmed and all of them except 13, 24, 25, 43, 45, 46, 53, 54, 55, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

The Board of Directors of the Wytheville Development Company, Inc. do hereby certify that the above is a true and correct copy of the original plat as recorded in the County Clerk's Office of this County, North Carolina, on the 12th day of April, 1879.

James Cameron, Secretary
Joseph W. Edwards, President

Witness my hand and seal of said Company at Wytheville, North Carolina, this 12th day of April, 1879.

- The alley was created as part of the Trinkle Addition Plat, which was recorded circa 1890. The image above shows the Trinkle Addition Plat with the site highlighted with a red circle.
- Multiple alleys were designated on the Trinkle Addition Plat in the 1890's. Most of these alleys, such as the one under consideration, were never developed or used for any public purpose.
- Ownership of the alley is presumed to be by the Town of Wytheville because of its creation as part of the Trinkle Addition Plat.

Staff Report: Request for Alley Vacation – VACA-23-1

- The Town has little evidence of ever having exercised dominion over the alley.
 - The only visible evidence of the alley is an existing curb driveway apron that was installed when curb and gutter were improved along the North 16th Street right-of-way. There is no evidence that the driveway entrance has been used with any regularity. The driveway apron can be seen in the image below.



- The alley has never been graded, graveled, or improved in any way that can be verified by visual observation of the site or through other records.
- Since the alley is unimproved, no maintenance on the alley has been performed by the Town.
- The unimproved nature of the alley can be observed along 14th Street where there are no visible signs of where the alley is located as seen in the image below.



Staff Report: Request for Alley Vacation – VACA-23-1

Utilities

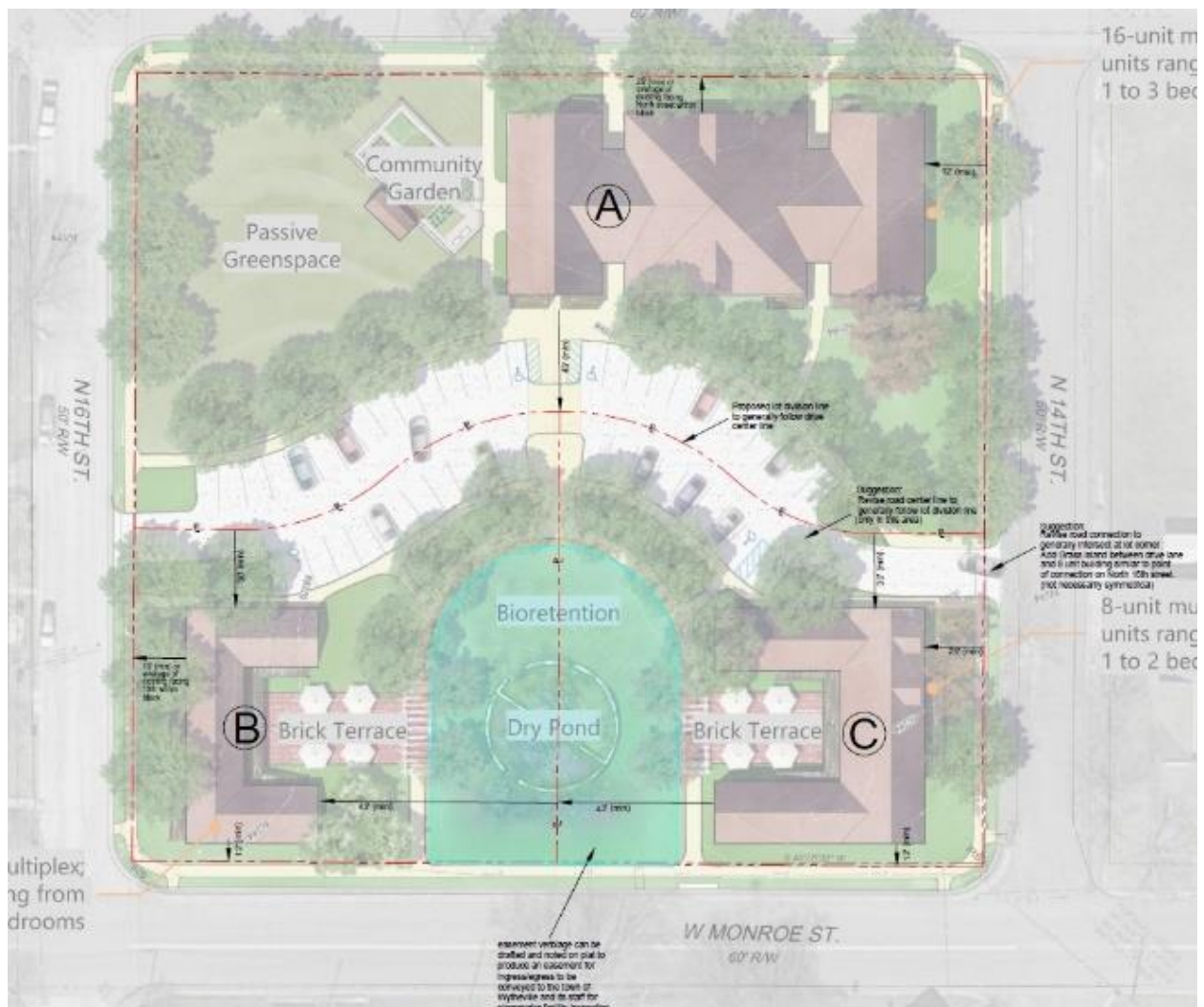
- The Town does not know of any utilities located in the alley, including utilities owned by the Town or by other utility providers.
- The Town of Wytheville Engineer concurs with the alley vacation request. He does not foresee any future need for the alley to accommodate public utilities for this neighborhood.

Impacts

- Negative impacts on the broader community are negligible. Since the alley has never been improved and is impassable for standard vehicles, there will be no loss of access to the general public.
- All adjoining parcels are under common ownership, so there are no parties that would lose access to the rear of their property.

Benefits to the Community

- Vacation of the alley will facilitate development of up to 30 workforce housing units.
- Development of the site as a housing complex will provide a net increase in access to the site for the broader community than in the existing scenario with an improved parking area providing site access.
- Maintenance of the site will be assumed by the future owners of the site thus freeing the Town from future maintenance expenses. A conceptual site plan of the proposed workforce housing is seen below.



Staff Report: Request for Alley Vacation – VACA-23-1

Staff Recommendation

Staff recommends approval of the alley vacation in view of the significant benefit to the community with no identified negative impacts to the community nor reduction in public access.

Alleyway Value Calculation

The total combined land value of the alleyway was calculated using average land value of adjoining properties. The average land value of the 16 adjoining parcels is \$2.79 per square foot based on the most recent assessed valuation of the adjoining parcels. The total land value for the 5,100 square foot alley is \$14,220.00.

Viewer Recommendation

A formal written request for vacation of the alley has been received from the applicant and is attached to this report. That request includes a request for waiver of fees for the vacation of the alley.

Regarding Vacation of the Alley: The viewers, Ms. Atkins and Ms. Johnson, recommended approval of the alley vacation.

Regarding the Fee Waiver: The viewers, Ms. Atkins and Ms. Johnson, recommended approval of the fee waiver with the condition that if the area is used for a purpose other than workforce housing, or if it is sold in the future, that the fee for alley vacation will become due and payable to the Town.

VACA-23-1

Application for Vacating, Discontinuing, and Closing Street/Alley

Status: Active

Date Created: Mar 27, 2023

Applicant

Jordan Stidham
jstidham@wythehope.org
680 West Main St
Wytheville, VA 24382
2762093734

Applicant Information

Applicant Name

HOPE Inc.

Does the applicant own property adjacent to the proposed street or alley closing?

Yes

Generally, streets and alleys can only be vacated by the Town to adjoining property owners. If you do not own property adjacent to the right-of-way in question, you must provide evidence that you would be entitled to complete the transaction.

Right-of-Way Information

Describe the section of street or alley to be vacated.

We purchased the entire block at 810 West Monroe. We would like to abandon the alley that runs down the dcenter for future parking.

Current use of the Right-of-Way

It is not. Its an empty field

Proposed Use of Right-of-Way

Parking for property development

Adjoining Property Owner Agreement





Yes

Please attach a Petition of Vacation affirming the concurrence of all adjoining property owners later in this application process.

Vacation of any right-of-way requires concurrence from all adjoining property owners. Without the agreement of all adjoining property owners, the right-of-way can not be vacated.

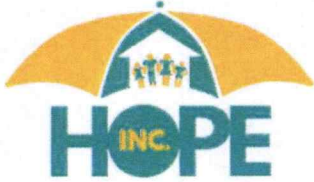
New Custom Section

Attachments

-  doc01095220230327114923.pdf
Uploaded by Jordan Stidham on Mar 27, 2023 at 11:52 am
-  2023 310 deed to 810 W Monroe.pdf
Uploaded by Jordan Stidham on Mar 28, 2023 at 8:33 am
-  2023 310 signed HUD settlement statements.pdf
Uploaded by Jordan Stidham on Mar 28, 2023 at 8:34 am
-  VACA-23-1 PROPERTY VALUE CALCULATION.pdf
Uploaded by Billy Anderson on Apr 4, 2023 at 2:57 pm

APPLICATION FOR VACATING, DISCONTINUING AND CLOSING ALLEY WAY (VACA-23-1)





03/27/2023

Petition for Vacation

To whom it may concern,

Wherefore, the below signed petitioner(s) respectfully request that the previously-described street/alley be vacated by the Council of the Town of Wytheville, Virginia, in accordance with Virginia Code Section 15.1-364, as amended.

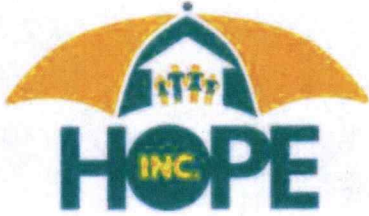
Thank you,

Jordan A Stidham

Director of Finance & Development

(276)209-3734

Helping Overcome Poverty's Existence (HOPE) INC.
680 W. Main St
Wytheville, VA 24382



04/13/2023

To whom it may concern,

HOPE Inc., located at 680 West Main St. in Wytheville Virginia has recently purchased the entire block of land located at 810 West Monroe Street in Wytheville. We are writing to you to request a waiver of the \$14,229 needed to abandon the alley way. The reasons we are requesting this waiver are as follows.

- We are a 501c3 non-profit that serves the Wytheville area, among others. In our serving of this area, one of our focuses is providing equal housing to working class and low-income families to ensure that all populations can enjoy the amenities and community that Wytheville has to offer.
- We are working on a 30-unit development that will go on this block that will help address the housing shortage, especially with the opening of the Blue Star factory.
- We have worked with our architects and designers to create a development that blends in well with the Wytheville community and aligns with the future and goals of Wytheville, including Downtown Wytheville. We have made a specific point to leave mature trees, green space, and a large community garden. By designing it this way and creating separate, architecturally appealing buildings, we need to use the alley way for the parking spaces that are required by zoning.
- Because we are building housing that is specifically targeted to house the workforce population (such as the factory workers at Blue Star) we are building on a tight budget to ensure that our rents are held at an affordable rate. This will go a long way towards ensuring the families are able to budget for other necessities in their lives. Because of this, waiving the alley abandoning cost would help us in keeping our budget down to ensure the affordability of our workforce housing.

Thank you,

Jordan A Stidham

Director of Finance and Development

WYTHEHOPE.ORG

680 West Main Street | PO Box 743 | Wytheville, VA 24382

Phone (276) 228-6280 | Fax (276) 228-0508

TOWN OF WYTHEVILLE ALLEY WAY VALUE CALCULATION				
PERMIT APPLICATION NUMBER	PERMIT APPLICATION SUBMITTAL DATE	NUMBER OF PARCELS ADJOINING APPLICATION	NUMBER OF OWNERS ADJOINING APPLICATION	
VACA-23-1	3/27/2023	16	1	
PARCEL 1	TAX MAP NO. (S)	TOTAL COMBINED TAXABLE/CALCULATED AREA IN SQ.FT.	TOTAL COMBINED TAXABLE LAND VALUE	CALCULATED AVERAGE LAND VALUE PER SQ.FT.
	41A-7-8-1	1.1708 ACRES = 51,000 SQ.FT.	\$142,500	\$142,500/51,000 SQ.FT.
	41A-7-8-2			
	41A-7-8-3			
	41A-7-8-4			
	41A-7-8-5			
	41A-7-8-6			
	41A-7-8-7			
	41A-7-8-8			
	41A-7-8-9			
	41A-7-8-10			
	41A-7-8-11			
	41A-7-8-12			
	41A-7-8-13			
	41A-7-8-14			
	41A-7-8-15			
	41A-7-8-16			
PLAT DIMENSION OF ALLEY WAY SUBJECT TO APPLICATION		SOURCE OF DIMENSIONS FOR ALLEY WAY SUBJECT TO APPLICATION		TOTAL COMBINED LAND VALUE OF ALLEY WAY CALCULATED USING AVERAGE LAND VALUE OF ADJOINING PROPERTIES
15'X340'		PLAT BOOK 1 PAGE 4		\$2.79 PER SQ.FT. x (5,100 SQ.FT)
5,100 SQ.FT		TRINKLE/CALFE ADDITION		

ORDINANCE NO. 1425

At a regular meeting of the Town Council of the Town of Wytheville, Virginia, held in the Council Chambers on June 26, 2023, at 5:00 p.m.

Present:

Absent:

**AN ORDINANCE DISCONTINUING AND VACATING AN ALLEY
RUNNING PARALLEL TO WEST MONROE STREET AND WEST
NORTH STREET, BETWEEN 14TH STREET AND 16TH STREET,
IN THE TOWN OF WYTHEVILLE, VIRGINIA**

WHEREAS, the Town Council received an application from HOPE, Inc. to discontinue and vacate an alley running parallel to West Monroe Street and West North Street, between 14th Street and 16th Street, in the Town of Wytheville, Virginia; and,

WHEREAS, the Public Works Committee of the Town Council was directed to review the closing of said alleyway, the discontinuance and vacation of which was proposed, and to recommend to Town Council whether or not the same should be discontinued and vacated; and,

WHEREAS, pursuant to the provisions of Section 15.2-2204 of the Code of Virginia, as amended, notice of the intention of the Town of Wytheville to discontinue and vacate the same was duly published twice as required by law, with at least six days elapsing between the first and second publication in the Wytheville Enterprise, a newspaper published or having general circulation in the Town of Wytheville, specifying the time and place of a hearing at which persons affected thereby might appear and be heard; and,

WHEREAS, a public hearing was conducted, as advertised, on June 26, 2023;

and,

WHEREAS, by report dated June 26, 2023, the Public Works Committee unanimously reported to the Town Council that no inconvenience would result from discontinuing and vacating an alley running parallel to West Monroe Street and West North Street, between 14th Street and 16th Street; and,

WHEREAS, the Public Works Committee has viewed said alleyway and reported their opinion what, if any, inconvenience would result from discontinuing and vacating the same; and,

WHEREAS, the Town Council concurs in said report and is of the opinion that the public interest would be best served by discontinuing and vacating the alley as reported by the Public Works Committee, that the rights and interests of no persons would be jeopardized or violated thereby, and all of the land proprietors affected by and abutting the said alleyway have applied for, or have agreed, to the vacation and discontinuance thereof.

NOW, THEREFORE, BE IT ORDAINED that the alley running parallel to West Monroe Street and West North Street, between 14th Street and 16th Street, as designated on the attached plat, be discontinued and vacated. This vacation is subject to any right, privilege, permit, license or easement in favor of any public service company, utility or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either presently in use or of record, including the right to operate, maintain, replace, alter or decrease in size any facilities in the vacated roadway, without permission from the landowner. The full value of consideration for the alley is \$14,229.00.

BE IT FURTHER ORDAINED that the rights-of-way referenced herein shall be conveyed to HOPE, Inc., and said conveyance will be contingent on the recordation of this Ordinance and a Quitclaim Deed in a form approved by the office of the Town Attorney and executed by the Town Manager on behalf of the Town Council of Wytheville. Recordation shall not occur until sixty (60) days have elapsed from the date of adoption of this Ordinance provided an appeal from the adoption of this Ordinance has not been filed within the said sixty (60) days. If the adoption of the Ordinance is appealed, recordation will be held in abeyance until the matter is resolved.

BE IT FURTHER ORDAINED that a certified copy of this ordinance of discontinuance and vacation be recorded as deeds are recorded and indexed in the name of the Town of Wytheville in the Clerk's Office of the Circuit Court of Wythe County, Virginia.

8-B

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Budget Appropriations for Fiscal Year 2022-2023 Budget

SUMMARY:

A public hearing has been scheduled to consider budget appropriations for the Fiscal Year 2022-2023 Budget. The appropriations consist of \$2,100 for the Park Amenities Fund; \$15,000 for the Perpetual Care Fund and \$8,000 for the Wytheville EDA Fund. Town Treasurer Stephens will be presenting the Staff Report on this matter. After receiving comments from any interested citizens, the public hearing should be declared closed.

Recommended Action

Town Treasurer Stephens has noted that **the motion should state, "To amend and appropriate the 2022-23 Park Amenities Fund Budget in the amount of \$2,100, the Perpetual Care Fund Budget in the amount of \$15,000 and the Wytheville EDA Fund in the amount of \$8,000."**

Action on this matter will require a roll call vote.

2022-2023 BUDGET AMENDMENT

	DEBIT	CREDIT
PERPETUAL CARE	\$15,000	
USE OF RESERVES		\$15,000
TOTAL PERPETUAL CARE FUND	\$15,000	\$15,000
BUILD IT 25 EXPENDITURES	\$8,000	
USE OF RESERVES		\$8,000
TOTAL WYTHEVILLE EDA FUNDING	\$8,000	\$8,000
PARK AMENITIES EXPENDITURES	\$2,100	
DONATIONS		\$2,100
TOTAL PARK AMENITIES FUND	\$2,100	\$2,100

MOTION - AMEND AND APPROPRIATE THE 2022-23 PARK AMENITIES FUND BUDGET IN THE AMOUNT OF \$ 2,100, PERPETUAL CARE FUND BUDGET IN THE AMOUNT OF \$15,000 AND THE WYTHEVILLE EDA FUND IN THE AMOUNT OF \$8,000.

8-C

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Ordinance No. 1422, the Budget Ordinance, for Fiscal Year 2023-2024

SUMMARY:

Ordinance No. 1422, the Budget Ordinance for Fiscal Year 2023-2024 is before the Town Council on third and final reading. Town Manager Freeman will continue to discuss the Budget Ordinance with the Town Council.

Recommended Action

Action to adopt Ordinance No. 1422 will require a motion and roll call vote by the Town Council.

ORDINANCE NO. 1422

At a regular meeting of the Town Council of the Town of Wytheville, Virginia, held in the Council Chambers on the 8th day of May, 2023, at 5:00 p.m.

Present:

Absent:

Ordinance No. 1422 concerning the budget for fiscal year beginning July 1, 2023, and ending June 30, 2024.

An Ordinance setting the tax rate at \$0.215 per \$100 valuation of Real Estate and Mobile Homes, \$0.33 per \$100 valuation of Machinery and Tools, \$0.38 per \$100 valuation of Personal Property, excluding household goods and personal effects and including the property separately classified by Sections 58.1-3200 and 58.1-3503 of the Code of Virginia, the Personal Property Tax Relief Act as authorized by Section 58.1-3523 of the Code of Virginia in the amount of twenty nine and twenty eighth one hundredths per centum (29.28%), and a Bank Franchise Tax as authorized by Section 58.1-1209 of the Code of Virginia in the amount of eighty per centum (80%) of the State rate of taxation for each one hundred dollars (\$100) of net capital of banks located in the Town. For such banks which have offices outside the corporate limits of the Town, the tax is to be apportioned as provided in Section 58.1-1211 of the Code of Virginia. The total rates as shown are for municipal purposes.

The funds as indicated are appropriated for the administration and operation of several departments in the Town of Wytheville for the fiscal year ending June 30, 2024. Be it ordained by the Council of the Town of Wytheville that the amounts, as listed herein, be appropriated from the estimate of revenues and funds on hand for the fiscal year.

2023-2024 PROPOSED APPROPRIATIONS - THIRD READING

GENERAL FUND EXPENDITURES		CURRENT BUDGET	PROPOSED BUDGET	INCREASE (DECREASE)
11010	TOWN COUNCIL	\$1,305,293	\$1,307,561	\$2,268
11020	TOWN CLERK	\$245,757	\$256,356	\$10,599
11030	COMMISSION MEMBERS	\$12,621	\$12,621	\$0
12110	TOWN MANAGER	\$164,459	\$174,587	\$10,128
12120	ASSISTANT TOWN MANAGER	\$139,702	\$149,400	\$9,698
12210	TOWN ATTORNEY	\$131,928	\$110,649	-\$21,279
12240	AUDITING AND LEGAL SERVICES	\$60,000	\$90,000	\$30,000
12410	TOWN TREASURER'S OFFICE	\$316,294	\$338,328	\$22,034
12520	AUTOMOTIVE/MOTOR POOL	\$292,532	\$328,982	\$36,450
12600	ENGINEERING DEPARTMENT	\$227,579	\$236,640	\$9,061
12710	HUMAN RESOURCES	\$301,061	\$281,491	-\$19,570
12820	COMPUTER OPERATIONS	\$333,153	\$385,858	\$52,705
21600	CLERK OF COURT	\$4,500	\$0	-\$4,500
31100	POLICE DEPARTMENT	\$2,956,854	\$3,375,087	\$418,233
32100	FIRE DEPARTMENT	\$1,313,795	\$1,141,812	-\$171,983
33400	EMERGENCY MEDICAL SERVICES	\$1,330,070	\$1,416,445	\$86,375
34100	INSPECTIONS-BUILDING	\$191,130	\$179,959	-\$11,171
35100	ANIMAL & PEST CONTROL	\$106,625	\$111,534	\$4,909
35600	TRANSIT SYSTEM	\$39,740	\$39,738	-\$2
41150	PUBLIC WORKS ADMINISTRATION	\$114,083	\$122,089	\$8,006
41200	MAINTENANCE OF STREETS	\$1,349,677	\$1,352,497	\$2,820
41330	SNOW AND ICE REMOVAL	\$67,956	\$94,267	\$26,311
41400	TRAFFIC STREETS, SIGN & LIGHTS	\$560,144	\$671,199	\$111,055
41550	STREET CONSTRUCTION	\$901,536	\$1,115,500	\$213,964
42200	STREET AND ROAD CLEANING	\$66,012	\$72,374	\$6,362
42300	REFUSE COLLECTION	\$183,573	\$468,602	\$285,029
42400	LANDFILL	\$84,650	\$91,300	\$6,650
42500	WEED CONTROL-MOWING	\$314,091	\$276,449	-\$37,642
43200	GENERAL PROPERTIES/TOWN GARAGE	\$145,927	\$126,268	-\$19,659
43300	EMS BUILDING	\$36,000	\$36,000	\$0
43400	TOWN HALL	\$241,274	\$267,948	\$26,674
43500	4TH STREET CIVIC CENTER	\$13,496	\$23,996	\$10,500
43600	PARKS/SPORTS COMPLEXES	\$110,707	\$80,007	-\$30,700
43700	CONFERENCE AND COMMUNITY CENTE	\$948,233	\$647,085	-\$301,148
43800	POLICE/FIRE BUILDING	\$48,750	\$50,750	\$2,000
43900	ANIMAL SHELTER	\$2,800	\$3,800	\$1,000
44000	E LEE TRINKLE VISTOR CENTER	\$130,923	\$182,455	\$51,532
44200	MEETING CENTER	\$509,234	\$617,591	\$108,357
51000	COMMUNITY ACTIVITIES - REIMBUR	\$12,094	\$12,094	\$0
53300	TAX RELIEF - ELDERLY & VETERAN	\$20,000	\$20,000	\$0
71290	FITNESS INSTRUCTION	\$111,553	\$125,973	\$14,420
71300	RECREATION ADMINISTRATION	\$491,897	\$535,370	\$43,473
71310	COMMUNITY PROGRAMS	\$162,323	\$249,172	\$86,849
71320	OUTDOOR SWIMMING POOL	\$61,504	\$112,360	\$50,856
71330	ATHLETIC PROGRAMS	\$173,970	\$168,813	-\$5,157

GENERAL FUND EXPENDITURES CONT.		CURRENT BUDGET	PROPOSED BUDGET	INCREASE (DECREASE)
71350	INDOOR SWIMMING POOL	\$386,202	\$978,870	\$592,668
71360	YOUTH/TEEN CENTER	\$187,918	\$175,645	-\$12,273
71370	FITNESS CENTER	\$141,813	\$155,816	\$14,003
71380	FIT FOR LIFE GRANT OCT 21- SEP	\$25,000	\$25,000	\$0
71390	FIT FOR LIFE GRANT OCT 20 - SE	\$25,000	\$25,000	\$0
71400	CEMETERIES	\$277,919	\$258,170	-\$19,749
72200	MUSEUMS/HERITAGE PRESERVATION	\$605,158	\$597,705	-\$7,453
72500	MUSEUM HERITAGE EDUCATION PROG	\$105,440	\$153,990	\$48,550
72800	HOMESTEAD MUSEUM	\$173,663	\$193,582	\$19,919
81600	TOURISM & COMMUNITY DEVELOPMENT	\$569,110	\$602,891	\$33,781
81700	JOINT I D A	\$282,055	\$300,262	\$18,207
81800	CHAMBER OF COMMERCE DIRECTOR	\$138,448	\$139,753	\$1,305
81900	MAIN STREET PROGRAM	\$84,851	\$137,432	\$52,581
83100	HORTICULTURE	\$479,048	\$517,184	\$38,136
95200	DEBT RETIREMENT	\$1,099,855	\$994,645	-\$105,210
TOTAL GENERAL FUND		\$20,916,978	\$22,716,954	\$1,799,974

WASTEWATER FUND EXPENDITURES		CURRENT BUDGET	PROPOSED BUDGET	INCREASE (DECREASE)
46000	WASTEWATER ADMINISTRATION	\$295,725	\$257,174	-\$38,551
46200	WASTEWATER TREATMENT PLANT	\$1,158,862	\$1,465,784	\$306,922
46400	WASTEWATER SYSTEM MAINTENANCE	\$28,270	\$34,102	\$5,832
46600	WASTEWATER CONSTRUCTION	\$13,530	\$13,758	\$228
46700	WASTEWATER PRETREATMENT PROGRA	\$99,810	\$113,007	\$13,197
46900	WASTEWATER UTILITIES	\$3,111,462	\$2,202,875	-\$908,587
95300	DEBT RETIREMENT	\$613,300	\$669,913	\$56,613
TOTAL WASTEWATER FUND		\$5,320,959	\$4,756,613	-\$564,346

WATER FUND EXPENDITURES		CURRENT	PROPOSED	INCREASE (DECREASE)
45000	WATER ADMINISTRATION	\$4,981,200	\$1,597,576	-\$3,383,624
45100	WATER TREATMENT PLANT	\$1,119,801	\$1,238,350	\$118,549
45300	WATER SYSTEM MAINTENANCE	\$529,297	\$582,033	\$52,736
45500	WATER CONSTRUCTION	\$125,129	\$180,517	\$55,388
45900	WATER UTILITIES	\$199,369	\$1,830,945	\$1,631,576
95100	DEBT RETIREMENT	\$517,000	\$651,311	\$134,311
TOTAL WATER FUND		\$7,471,796	\$6,080,732	-\$1,391,064

11010	OPEB FUND	CURRENT	PROPOSED	INCREASE / (DECREASE)
	OPEB	\$24,000	\$24,000	\$0
	TOTAL	\$24,000	\$24,000	\$0

73100	PERPETUAL CARE FUND	CURRENT	PROPOSED	INCREASE (DECREASE)
	PERPETUAL CARE FUND	\$0.00	\$37,200	37,200
	TOTAL	\$0.00	\$37,200	37,200

82000	WALL OF HONOR FUND	CURRENT	PROPOSED	INCREASE (DECREASE)
	WALL OF HONOR	\$2,000	\$2,000	\$0
	TOTAL	\$2,000	\$2,000	\$0

84000	HOMESTEAD ENDOWMENT FUND	CURRENT	PROPOSED	INCREASE (DECREASE)
	HOMESTEAD ENDOWMENT	\$41,000	\$0.00	(41,000)
	TOTAL	\$41,000	\$0.00	(41,000)

87000	MUSEUM ENDOWMENT FUND	CURRENT	PROPOSED	INCREASE (DECREASE)
	MUSEUM ENDOWMENT	\$4,000	\$0	-\$4,000
	TOTAL	\$4,000	\$0	-\$4,000

TOTAL EXPENDITURES - ALL FUNDS		\$35,051,899	\$33,617,499	-\$1,434,400
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2023-24 PROPOSED REVENUES - THIRD READING				
GENERAL FUND		CURRENT	PROPOSED	INCREASE (DECREASE)
11010	REAL ESTATE TAXES	\$1,878,807	\$2,000,000	\$121,193
11020	PUBLIC SERVICE TAX	\$60,000	\$60,000	\$0
11030	PERSONAL PROPERTY TAX	\$250,000	\$330,000	\$80,000
11040	MOBILE HOME TAX	\$1,300	\$1,300	\$0
11050	MACHINERY & TOOLS	\$148,500	\$148,500	\$0
11060	PENALTY & INTEREST	\$16,000	\$16,000	\$0
12000	LOCAL TAXES	\$7,253,415	\$8,093,187	\$839,772
12030	BUSINESS LICENSES	\$1,550,000	\$1,750,000	\$200,000
13000	PERMITS	\$92,150	\$92,150	\$0
14000	FINES	\$18,000	\$18,000	\$0
15000	INTEREST ON INVESTMENTS	\$155,000	\$565,000	\$410,000
15010	USE OF PROP./SALE OF MATERIA	\$16,100	\$66,100	\$50,000
16020	EMERGENCY MEDICAL SERVICES	\$730,000	\$885,000	\$155,000
16030	FIRE SERVICES	\$10,000	\$7,500	-\$2,500
16040	REIMBURSEMENT FARMERS MARKET	\$0	\$1,800	\$1,800
16050	REIMBURSEMENT OTHER ENTITIES	\$1,800	\$589,447	\$587,647
16060	CHARGES FOR ANIMAL CONTROL	\$517,353	\$50	-\$517,303
16070	MISCELLANEOUS ASSESSMENTS	\$50	\$725	\$675
16080	MOWING CHARGES	\$725	\$20,800	\$20,075
16130	RECREATION DEPARTMENT	\$20,800	\$645,250	\$624,450
16160	COPIES	\$573,750	\$2,000	-\$571,750
17000	MUSEUMS	\$2,000	\$60,550	\$58,550
17001	HOMESTEAD MUSEUMS	\$50,450	\$0	-\$50,450
17500	MEETING CENTER	\$13,100	\$186,100	\$173,000
18000	MISCELLANEOUS	\$83,600	\$722,636	\$639,036
18000	USE OF RESERVES	\$246,480	\$1,146,689	\$900,209
22000	NON CATEGORICAL AID	\$3,180,451	\$473,500	-\$2,706,951
24000	CATEGORICAL AID	\$423,500	\$3,897,670	\$3,474,170
	GRANTS & LOANS	\$3,590,646	\$904,000	-\$2,686,646
41000	SALE OF CEMETERY SPACES	\$33,000	\$33,000	\$0
TOTAL GENERAL FUND REVENUE		\$20,916,978	\$22,716,954	\$1,799,977

DEPT	WASTEWATER FUND REVENUES	CURRENT	PROPOSED	INCREASE (DECREASE)
15000	INTEREST	\$7,000	\$7,000	\$0
18000	USE OF RESERVES	\$1,373,606	\$143,140	-\$1,230,466
32000	GRANTS/LOANS	\$1,475,353	\$2,040,834	\$565,482
80000	REVENUES SEWER SERVICES/CHARGES	\$2,465,000	\$2,565,639	\$100,639
TOTAL WASTEWATER FUND		\$5,320,959	\$4,756,613.33	-\$564,346

DEPT	WATER FUND REVENUES	CURRENT	PROPOSED	INCREASE (DECREASE)
15000	INTEREST	\$1,025	3,500	\$2,475
18000	USE OF RESERVES	\$113,865	123,420	\$9,555
32000	BOND PROCEEDS	\$3,440,000	1,550,000	(\$1,890,000)
70000	REVENUES WATER SERVICES/CHARGES	\$3,871,907	4,358,812	\$486,905
90000	PENALTIES	\$45,000	45,000	\$0
TOTAL WATER FUND		\$7,471,796	\$6,080,732	-\$1,391,064

DEPT	OPEB FUND REVENUES	CURRENT	PROPOSED	INCREASE (DECREASE)
15000	CONTRIBUTION TO FUND	\$24,000	\$24,000	\$0
18000	USE OF RESERVES	\$0	\$0	\$0
TOTAL		\$24,000	\$24,000	\$0

DEPT	PERPETUAL CARE FUND REVENUES	CURRENT	PROPOSED	INCREASE (DECREASE)
18000	USE OF RESERVES	\$0	37,200	\$37,200
TOTAL		\$0	37,200	\$37,200

DEPT	WALL OF HONOR FUND REVENUES	CURRENT	PROPOSED	INCREASE (DECREASE)
15000	INTEREST	\$100	\$100	\$0
18000	DONATIONS	\$1,900	\$1,900	\$0
TOTAL		\$2,000	\$2,000	\$0

DEPT	HOMESTEAD ENDOWMENT FUND REVENUES	CURRENT	PROPOSED	INCREASE (DECREASE)
15000	INTEREST ON ENDOWMENT	\$2,000	\$0	-\$2000
17000	FEES	\$26,000	\$0	-\$26000
18000	USE OF RESERVES	\$13,000	\$0	-\$13000
TOTAL		\$41,000	\$0	(\$41,000)

DEPT	MUSEUM ENDOWMENT FUND REVENUES	CURRENT	PROPOSED	INCREASE (DECREASE)
18000	USE OF RESERVES	\$0	\$0	\$0
TOTAL		\$0	\$0	\$0

TOTAL REVENUES - ALL FUNDS		\$33,776,734	\$33,617,499	-\$159,235
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8-D

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Ordinance No. 1424

SUMMARY:

Please find attached Ordinance No. 1424, an ordinance amending and reenacting Chapter 12. Solid Waste Collection and Disposal, Article VI. Nuisances on Premises, Removal of Weeds, Mowing, Etc., and Clutter, Division 2. Removal of Weeds, Mowing, Etc., by amending Section 12-92. Excessive Vegetation; Overgrowth, and by adding Section 12.94. Mowing Exemptions, of the Town Code. This ordinance makes several amendments to the Town Code regarding mowing requirements, and these revisions are highlighted in yellow in the draft ordinance. Assistant Town Manager Holeton will provide the Town Council with a Staff Report and explain the proposed revisions. This ordinance is before the Town Council on first reading, and Town staff would recommend that it be adopted on first and final reading.

Recommended Action

Action to adopt Ordinance No. 1424 will require a motion and roll call vote by the Town Council.

ORDINANCE NO. 1424

At a regular meeting of the Town Council of the Town of Wytheville, Virginia, held in the Council Chambers on Monday, June 26, 2023, at 5:00 p.m.

Present:

Absent:

AN ORDINANCE AMENDING AND REENACTING CHAPTER 12. SOLID WASTE COLLECTION AND DISPOSAL, ARTICLE VI. NUISANCES ON PREMISES, REMOVAL OF WEEDS, MOWING, ETC., AND CLUTTER, DIVISION 2. REMOVAL OF WEEDS, MOWING, ETC., BY AMENDING SECTION 12-92. EXCESSIVE VEGETATION; OVERGROWTH, AND BY ADDING SECTION 12-94. MOWING EXEMPTIONS, OF THE CODE OF THE TOWN OF WYTHEVILLE, VIRGINIA

BE IT ORDAINED by the Town Council of the Town of Wytheville, Virginia, that this ordinance amends and reenacts Chapter 12. Solid Waste Collection and Disposal, Article VI. Nuisances on Premises, Removal of Weeds, Mowing, Etc., and Clutter, Division 2. Removal of Weeds, Mowing, Etc., by amending Section 12-92. Excessive Vegetation; Overgrowth, and by adding Section 12-94. Mowing Exemptions, of the Code of the Town of Wytheville, Virginia, as follows:

DIVISION 2. REMOVAL OF WEEDS, MOWING, ETC.

Sec. 12-92. Excessive vegetation; overgrowth.

- (a) It shall be unlawful for the owners of property to permit grass, weeds and other foreign growth to exceed the prescribed height of 12 inches, except: (1) if a property is located in an A-1 Agricultural Zone that has been set aside for agricultural operations as defined in Section 12-76 of this chapter and used for the production of hay, feed crops or similar agricultural uses; (2) if a property owner has applied and been approved for a mowing exemption as outlined in Section 12-94 of this chapter; or (3) if a property owner has applied and been approved for using the property for nontraditional landscaping purposes as defined in Section 12-93.
- (b) ~~Trees~~, Shrubs, flower beds, vegetable gardens and other landscaping that are maintained free of grass, weeds, vegetation or other foreign growth do not require cutting. ~~It shall be unlawful for the owners of any property to permit unsafe trees to~~

~~remain on the property that would pose a threat to public property and persons on public property.~~

- (c) Each person owning property containing a stormwater management facility within the town shall cut the grass, weeds, trees, vegetation or other foreign growth within and surrounding the facility, as well as all conveyance channels serving the facility, a minimum of two times per year.
- (d) Every year, the town shall publish reasonable notice in the news media reminding property owners of their obligation to cut or trim grass, weeds, **unsafe trees**, and other foreign growth on such property each year. In the event the property owner fails to comply with **the provisions of this article**, the town, through its public works agents or employees, may elect to cut or trim the grass, weeds, **remove or trim unsafe trees to render it safe**, and foreign growth if the height meets or exceeds 12 inches, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected as taxes are collected. The town shall not be required to provide more than one written notice per growing season to the owner of record of the subject property.
- (e) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 and 4 (Code of Virginia, §§ 58.1-3940 et seq., 58.1-3965 et seq.). The town may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed. If the sum due to the town has not been paid within fifteen (15) days from receipt of such notice, the town manager shall be authorized to add the charges to the amount due for the current town real estate taxes on said property.
- (f) Any violations of this section shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period. The civil penalties are in addition to any costs the property owner incurs as a result of the failure to comply with this section.
- (g) In the event three civil penalties have been previously imposed on the same property owner for the same or similar violation, as described in this section and not arising from the same set of operative facts, within a 24-month period, the fourth violation shall be a class 3 misdemeanor.

State Law Reference – Code of Virginia, § 15.2-901, *Locality may provide for removal or disposal of trash and clutter; cutting of grass, weeds, and running bamboo; penalty.*

Sec. 12-93. Nontraditional landscaping of property.

(a) If a person owning property wishes to establish an area of such property in which the continuing growth of grass, landscaping plants, trees or other growth will occur, such person may make application to the town council for a revocable permit for nontraditional landscaping of the property including but not limited to pollinator meadows, urban woodlands, native plant materials, and/or ornamental grasses. To assure approval prior to the spring planting season, applications for nontraditional landscaping shall be submitted prior to December 15 of each year for consideration and approval at a Council meeting on or about February 15 of the following year.

(b) Property owners desiring to maintain nontraditional landscaping for the purpose of improving wildlife habitat, species diversity or other sound ecological or aesthetic goal, shall submit an application to the town manager. With the application, the property owner shall be prepared to present information concerning the proposed nontraditional landscaping to the town council, which shall include the following information as well as any other information supporting the proposed nontraditional landscaping:

(1) A plan for the property along with a narrative description of the proposed landscaping delineating in detail the proposed planting to be installed and the existing planting to remain and describing the composition of the proposed plan including rock formations, ponds, streams, planting beds, flowers, grasses, trees, shrubs and other features;

(2) A description of the expected benefits of the proposed landscape to the community, wildlife, habitat and other effects on the property and its environs;

(3) A maintenance plan for the property that shows the type of maintenance to be performed, the frequency of that maintenance; and,

(4) A narrative of how the proposed landscape materials and maintenance program will protect public health, safety, and welfare. The narrative should address how habitat enhancement is balanced with fire safety and reduction of vermin.

The town manager will present the application to the town council at the next regularly scheduled council meeting. It is the responsibility of the applicant to submit their application early enough to secure required approval prior to any plant installation. The town council will notify the property owners adjacent to the proposed nontraditional landscaping by registered mail. Upon notification, property owners will have 30 days in which to comment on the proposal. If any adjacent property owner communicates concern, a public hearing will be set at a regularly scheduled council meeting. The hearing date shall allow adequate time for the required advertisements. If a public hearing is deemed necessary, the property owner shall present the information at the hearing or meeting. Presentations may be in writing, orally, or a combination of the two.

(c) Upon approval, implementation action of the plan is expected within six months and if after two years from the date of approval, the alternate landscaping plan is not in substantial compliance with the original plan, the Town Council may revoke it. Town inspections will occur each year. Nontraditional landscaping is not intended as a substitute for landscape maintenance. Maintenance including pruning, mowing,

trimming, and shaping of plant materials is required in a manner that is appropriate for each species of plant in order to preserve an attractive appearance and to eliminate buildup of vegetation that would pose a fire hazard to adjoining properties.

Sec. 12-94. Mowing exemptions.

(a) The purpose of the mowing exemption is to accommodate owners of property who are not located in an A-1 Agricultural Zoning District and who harvest hay or use the property for other valid agricultural purposes.

(b) The mowing exemption shall only apply to those properties that are not already considered exempt as stated in Section 12-92 (a) (1) and (a) (3).

(c) A property owner seeking a Mowing Exemption Permit shall submit an application prior to the grass, weeds and foreign growth reaching the prescribed height, and the application shall be reviewed for approval by the Town Manager or his/her designee.

(d) The mowing exemption shall only be valid until December 31 of each year, and the owner must reapply each year.

(e) To maintain the mowing exemption, the property owner shall mow, harvest or otherwise cut the grass, weeds and other foreign growth at least once by December 31 of each year. The Town Manager reserves the right to revoke the Mowing Exemption Permit, if the property owner fails to comply with the terms of this article.

(f) The Town Manager shall reserve the right to grant mowing exemptions. The property owner shall be required to mow the property, or the property shall be mowed by the town as provided for in Section 12-92 (d).

8-E

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Ordinance No. 1426 – Cigarette Tax

SUMMARY:

Please find attached Ordinance No. 1426, an ordinance repealing and replacing Chapter 14. Taxation, Article IV. Cigarette Tax, of the Town Code. This is the model Cigarette Tax Ordinance developed by the Mount Rogers Cigarette Tax Board of which the Town of Wytheville is a member. This model Cigarette Tax Ordinance has been adopted by several localities in the region, and it has been reviewed and approved by Town Treasurer Stephens. Town Manager Freeman will provide the Council with a Staff Report regarding this ordinance. This ordinance is before the Town Council on first reading, however, the ordinance can be adopted on first and final reading, if the Council desires.

Recommended Action

Action to approve Ordinance No. 1426 will require a motion and roll call vote by the Town Council.

PUBLIC HEARINGS, REQUESTS, RESOLUTIONS, COUNCIL DECISIONS

JUNE 26, 2023

1. Cigarette Tax Ordinance

Because cigarettes are a controlled substance, administration and enforcement of the cigarette tax is complex, requiring local and state tax stamping, inventory control and payment prior to the sale. Collected cigarette taxes are a supplemental form of General Fund revenue.

In 2020, the Virginia General Assembly passed legislation authorizing all counties to levy a tax on cigarettes, effective July 1, 2021. Previously, only cities, towns and two counties were authorized to levy a cigarette tax. The Town of Wytheville has had a cigarette tax ordinance in force since 1980.

In 2021, the General Assembly passed Senate Bill 1326 clarifying Regional Cigarette Tax Boards and defining Regional Cigarette Tax Boards as “a board established by a group of at least six member localities pursuant to their powers under this article, Chapter 13 (§ 15.2-1300 et seq.) of Title 15.2, and the Regional Cooperation Act (§ 15.2-4200 et seq.), with the purpose of administering local cigarette taxes on a regional basis.”

Later in 2021, the Mount Rogers Cigarette Tax Board (MRCTB) was formed, and the Town of Wytheville elected to join. MRCTB is a regional cooperative, that provides uniform administration and enforcement of local cigarette taxes on behalf of member jurisdictions. Members include Wythe County, Bland County, Smyth

County, Pulaski County, and the Towns of Wytheville, Dublin, Chilhowie, Abingdon, Marion, Saltville, Damascus and Rural Retreat

In order to properly establish MRCTB's authority to act on the Town's behalf in matters related to the collection of cigarette taxes including, but not limited to, monitoring and enforcement, seizure of contraband and the collection and distribution of funds, it will be necessary to repeal and replace the existing ordinance with an ordinance that better reflects the arrangement among the Town of Wytheville and MRCTB and the member localities.

The MRCTB has provided a model ordinance for use by each of the member localities. This ordinance has been reviewed by Town staff, legal counsel and the Mount Rogers Cigarette Tax Board. It is the staff recommendation that the ordinance be approved on first and final reading.

ORDINANCE NO. 1426

At a regular meeting of the Town Council of the Town of Wytheville, Virginia, held in the Council Chambers on the 26th day of June 2023, at 5:00 p.m.

Present:

Absent:

**AN ORDINANCE REPEALING AND REPLACING
CHAPTER 14. TAXATION, ARTICLE IV. CIGARETTE TAX,
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, of the Code of the Town of Wytheville, Virginia, be repealed and replaced as follows:

ARTICLE IV. CIGARETTE TAX

Sec. 14-51. Short title.

This article shall be known and may be cited as the Town of Wytheville Cigarette Tax Ordinance.

Sec. 14-52. Definitions.

For the purposes of this article, the following words and phrases have the meanings respectively ascribed to them by this section, except in those instances where the context clearly indicates a different meaning:

Administrator means the individual employed by the board to administer the enforcement of this article, or his or her designated agents or appointees.

Board or MRCTB means the Mount Rogers Cigarette Tax Board.

Carton means any container, regardless of material used in its construction, in which packages of cigarettes are placed.

Cigarette means and includes any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.

Cigarette machine operator means any individual, partnership or corporation engaged in the sale of packages of cigarettes from vending machines.

Dealer means and includes every manufacturer's representative, wholesaler, retailer, cigarette machine operator, public warehouseman or other person who shall sell, receive, store, possess, distribute, or transport cigarettes within or into the town.

Package means and includes any container, regardless of the material used in its construction, in which separate cigarettes are placed without such cigarettes being placed into any container within the package. Packages are those containers of cigarettes from which they are consumed by their ultimate user. Ordinarily a package contains twenty (20) cigarettes; however, "package" includes those containers in which fewer or more than twenty (20) cigarettes are placed.

Person means and includes any individual, firm, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership, and conservator. The word "person" as applied to a partnership, unincorporated association or other joint venture means the partners or members thereof, and as applied to a corporation, includes all the officers and directors thereof.

Place of business means and includes any place where cigarettes are sold, placed, stored, offered for sale or displayed for sale or where cigarettes are brought or kept for the purpose of sale, consumption or distribution, including vending machines, by a dealer within the town.

Registered agent means and includes every dealer and other person who shall be required to report and collect the tax on cigarettes under the provisions of this article.

Retail dealer means and includes every person who, in the usual course of business, purchases or receives cigarettes from any source whatsoever for the purpose of sale within the town to the ultimate consumer; or any person who, in the usual course of business, owns, leases or otherwise operates within his or her own place of business, one (1) or more cigarette vending machines for the purpose of sale within the town of cigarettes to the ultimate consumer; or, any person who, in any manner, buys, sells, stores, transfers or deals in cigarettes for the purpose of sale within the town to the ultimate consumer, who is not licensed as a wholesaler or vending machine operator.

Sale or sell means and includes every act or transaction, regardless of the method or means employed, including barter, exchange or the use of vending machines or other mechanical devices or a criminal or tortious act whereby either ownership or possession, or both, of any cigarettes shall be transferred within the town from a dealer as herein defined to any other person for a consideration.

Stamp means a small, gummed piece of paper or decal used to evidence provision for payment of the tax as authorized by the Mount Rogers Cigarette Tax Board, required to be affixed to every package of cigarettes sold, distributed or used within the town.

Store or storage means and includes the keeping or retention of cigarettes in this town for any purpose except sale in the regular course of business.

Tobacco revenue agent means persons authorized by the MRCTB to act on its behalf in enforcement of this article.

Town means the Town of Wytheville, Virginia.

Use means and includes the exercise of any right or power over any cigarettes or packages of cigarettes incident to the ownership or possession of those cigarettes or packages of cigarettes including any transaction where possession is given or received or otherwise transferred, other than a sale.

User means any person who exercises any right or power over any cigarettes or packages of cigarettes subject to the provisions of this Article incident to the ownership or possession of those cigarettes or packages of cigarettes or any transaction where possession is given or received or otherwise transferred, other than a sale.

Wholesale dealer means any individual, partnership or corporation engaged in the sale of packages of cigarettes for resale into or within the town.

Sec. 14-53. Levy and rate.

In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby levied and imposed by the town upon every person who sells or uses cigarettes within the town an excise tax at a rate of forty cents (\$0.40) for each package containing twenty (20) cigarettes and two cents (\$0.02) for each cigarette contained in packages of fewer or more than twenty (20) cigarettes sold or used within the town. The tax shall be paid and collected in the manner and at the time hereinafter prescribed; provided, that the tax payable for each cigarette or cigarette package sold or used within the town shall be paid but once.

Sec. 14-54. Methods of collection.

- (a) The tax imposed by this section shall be evidenced by the use of a tax stamp and shall be paid by each dealer or other person liable for the tax. The stamps shall be affixed in such a manner that their removal will require continued application of water or steam. Each dealer or other person liable for the tax is hereby required, and it shall be his duty, to collect, pay the tax and report on a monthly basis all packages of cigarettes on forms prescribed for this purpose by the board, including the following:
- (1) The quantity of MRCTB-stamped cigarettes sold or delivered to:
 - a. Each registered agent appointed by the board for which no tax was collected;
 - b. Each manufacturer's representative; and,
 - c. Each separate person and place of business during the preceding calendar or fiscal month; and,
 - (2) The quantity of MRCTB stamps on hand, both affixed and unaffixed on the first and the last day of the preceding calendar month and the quantity of MRCTB stamps or MRCTB stamped cigarettes received during the preceding calendar month; and,
 - (3) The quantity of cigarettes on hand to which the MRCTB stamp had not been affixed on the first and last day of the preceding calendar or fiscal month and the quantity of cigarettes received during the preceding calendar or fiscal month to which the MRCTB stamp had not been affixed; and,
 - (4) Such further information as the administrator for the board may require for the proper administration and enforcement of this article for the determination of the exact number of cigarettes in the possession of each dealer or user.
- (b) Each dealer or other person liable for the tax shall file such reports with the board and pay the tax due to the board prior to the monthly due date to be established by the board and shall furnish copies of all cigarette tax reports submitted to the Virginia Department of Taxation.
- (c) When, upon examination and audit of any invoices, records, books, cancelled checks or other memoranda touching on the purchase, sale, receipt, storage or possession of tobacco products taxed herein, any dealer or other person liable for the tax is unable to furnish evidence to the board of sufficient tax payments and stamp purchases to cover cigarettes which were sold, used, stored, received, purchased or possessed by such person, the prima facie presumption shall arise that such cigarettes were received, sold, used, stored, purchased or possessed by such person without the proper tax having been paid. The board shall, from the results of such examination and audit based upon such direct or indirect information available, assess the tax due, impose a penalty of ten (10) percent and may impose interest of three-quarters ($\frac{3}{4}$) percent per month of the gross tax due.
- (d) When any dealer or other person liable for the tax files a false or fraudulent report or fails to file a report or fails to perform any act or performs any act to evade payment of the tax, the board shall administratively assess the tax due and impose a penalty not to exceed fifty (50) percent of the tax due and interest of three-quarters ($\frac{3}{4}$) percent per month of the gross tax due.
- (e) The dealer or other person liable for the tax shall be notified by certified mail of such deficiency and such tax, penalty and interest assessed shall be due and payable within ten (10) days after notice of such deficiency has been issued. Every dealer or other person liable for the tax shall examine each package of cigarettes to ensure that the MRCTB stamp has been affixed thereto prior to offering them for sale.
- (f) Any dealer or other person liable for the tax who shall receive cigarettes not bearing the MRCTB stamp shall, within receipt of such cigarettes, commence and with all reasonable diligence continue to affix the MRCTB stamp to each and every package of cigarettes until

all unstamped packages of cigarettes have been stamped and before offering such cigarettes for sale. Any dealer or other person liable for the tax who has notified the board that he is engaged in interstate or intrastate business shall be permitted to set aside such part of his stock as may be legally kept for the conduct of such interstate or intrastate business (that is, cigarettes held for sale outside the jurisdiction of the board) without affixing the stamps required by this article. Any such interstate or intrastate stock shall be kept entirely separate and apart from the MRCTB-stamped stock, in such a manner as to prevent the commingling of the interstate or intrastate stock with the MRCTB stock. Any dealer or other person liable for the tax found to have had untaxed cigarettes which have been lost, whether by negligence, theft or any other unaccountable loss, shall be liable for and shall pay the tax due thereon.

- (g) It shall also be the duty of each dealer or other person liable for the tax to maintain and keep for a period of three (3) years, not including the current calendar year, records of all cigarettes received, sold, stored, possessed, transferred or handled by such person in any manner whatsoever, whether the same were stamped or unstamped, to make all such records available for audit, inspection and examination at all reasonable times, as well as the means, facilities and opportunity for making such audit, inspection or examination upon demand of the board.

Sec. 14-55. Registered agents.

- (a) Any dealer or other person liable for the tax who shall sell, use, store, possess, distribute, or transport cigarettes within or into the town shall first make application to the board to qualify as a registered agent. The application form shall require such information as the board deems necessary for the administration and enforcement of this article. Applications shall be subject to yearly registration fees for all wholesale dealers and all cigarette machine operators. Applicants shall provide a surety bond to the board in the amount of one hundred fifty (150) percent of the applicant's average monthly tax liability. Such bonds shall be issued by a surety company authorized to do business in the Commonwealth of Virginia. Such bond shall be so written that, on timely payment of the premium thereon, it shall continue in force from year to year. Any applicant whose place of business is outside the area subject to enforcement by the board shall automatically, by filing virtue of filing of the application, be deemed to submit to the board's legal jurisdiction and appoint the administrator for the board as agent for any service of lawful process, unless the applicant designates an attorney with offices within the town upon which lawful process is to be served. Upon receipt of properly completed application forms and the required surety bond, the board shall determine whether the applicant qualifies to be a registered agent. The board will issue to qualified applicants a yearly registered agent permit to enable such agent to purchase, sell, use, store, possess, distribute or transport within or into the town, MRCTB-stamped cigarettes.
- (b) By submitting an application, registered agents obligate themselves to the reporting and payment requirements placed upon them by this article and the rules and regulations as from time to time may be promulgated by the board.
- (c) When any registered agent's monthly report and payment of the tax is not received within the dates prescribed, the board shall impose a late reporting penalty of ten (10) percent of the gross tax due or ten dollars (\$10.00) whichever is greater, but in no event more than one thousand dollars (\$1,000.00).
- (d) The board also may require such registered agent to provide proof that he has complied with all applicable laws of the Commonwealth of Virginia to legally conduct such business and to file financial statements showing all assets and liabilities.
- (e) The board may revoke or suspend any registered agent's permit due to failure to file tax reports in a timely manner, non-payment of taxes due, or if the cigarette tax surety bond should become impaired for any reason.
- (f) All money collected as cigarette taxes under this article shall be deemed to be held in trust by the dealer collecting the same until remitted to the board.
- (g) Registered agents must account for all MRCTB authorized tax stamps purchased. Periodic audits may be conducted to determine any unaccounted variance between the number of stamps purchased and the number of stamps reported, and an assessment will be made for all unaccounted stamps. Any assessment of registered agents located outside the jurisdictions of the board will be based upon the average sales of packages of cigarettes by jurisdiction during the audit period. For registered agents located within the jurisdictions of the board, any assessment will be based upon the tax rate of the jurisdiction in which they are located. In addition, there will be a penalty for non-reporting of ten (10) percent of the gross tax due.

Sec. 14-56. Requirements for retail dealers.

- (a) Retail dealers who shall sell, offer for sale, store, possess, distribute, purchase, receive or transport cigarettes for the purpose of sale within the town shall purchase cigarettes only from registered agents. Retail dealers shall provide the registered agent with the business trade name and physical address where the cigarettes will be placed for sale to the public. Cigarettes purchased for personal use cannot be brought into a business for resale. Only properly registered and licensed retail stores may sell cigarettes to the public. To be properly registered and licensed, a retail store must first have a valid Virginia state sale and use tax certificate and valid retail business license. Cigarettes must be purchased and stored separately for each business location. All copies of cigarette purchase invoices/receipts must be retained by the retailer for a period of three (3) years and shall be made available to agents of the MRCTB upon request for use in conducting audits and investigations. All copies of cigarette purchase invoices/receipts must be stored at the business retail location for a period of one (1) year from date of purchase. Failure to provide cigarette invoices/receipts may result in confiscation of cigarettes until receipts can be reviewed by the board to verify the proper tax has been paid. It is the responsibility of each retail location to ensure that all cigarettes placed for sale or stored at that location be properly taxed and stamped. Cigarettes found without the MRCTB stamp or the proper jurisdictional tax paid will be seized by the agents of the board.
- (b) Retail dealers must make their place of business available for inspection by MRCTB tobacco revenue agents to ensure that all cigarettes are properly tax-stamped, and all cigarette taxes are properly paid.

Sec. 14-57. Presumption of illegality; seizure of contraband goods, sealing/seizing of machines.

- (a) If any cigarette machine operator or other person liable for the tax imposed by this article is found to possess any cigarettes without the jurisdictional tax paid or the proper tax stamp affixed, there shall be a rebuttable presumption that any such operator or other person shall be in possession of untaxed cigarettes in violation of this section.
- (b) If any cigarettes are placed in any vending machines within the town, then there shall be a rebuttable presumption that such cigarettes were placed in that machine for sale within the town. If any vending machine located within the town contains cigarettes upon which the MRCTB tax stamp has not been affixed or on which the jurisdictional tax has not been paid or containing cigarettes placed so as to not allow visual inspection of the MRCTB tax stamp through viewing area as provided for by the vending machine manufacturer, then there shall be a rebuttable presumption that the machine contains untaxed cigarettes in violation of this article.
- (c) Any cigarettes, vending machines, cigarette tax stamps or other property found in violation of this Article shall be declared contraband goods and may be seized by the board. In addition to any tax due, the dealer or other person liable for the tax possessing such untaxed cigarettes or tax stamps shall be subject to civil and criminal penalties herein provided.
- (d) In lieu of seizure, the board may seal such vending machines to prevent continued illegal sale or removal of such cigarettes. The removal of such seal from a vending machine by any unauthorized person shall be a violation of this article. Nothing in this article shall prevent the seizure of any vending machine at any time after it is sealed.
- (e) All cigarette vending machines shall be plainly marked with the name, address and telephone number of the owner of said machine.

Sec. 14-58. Illegal acts.

- (a) It shall be unlawful and a violation of the article for any dealer or other person liable for the tax:
 - (1) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof, or to fail or refuse to perform any of the duties imposed upon such person under the provisions of this article or to fail or refuse to obey any lawful order which may be issued under this article; or,
 - (2) To falsely or fraudulently make, or cause to be made, any invoices or reports, or to falsely or fraudulently forge, alter or counterfeit any stamp, or to procure or cause to be made, forged, altered or counterfeited any such stamp, or knowingly and willfully to alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps; or,
 - (3) To sell, offer for sale or distribute any cigarettes upon which the MRCTB tax stamp has not been affixed or upon which the jurisdictional tax has not been paid; or,
 - (4) To possess, store, use, authorize or approve the possession, storage or use of any cigarette packages upon which the MRCTB tax stamp has not been affixed or upon which the jurisdictional tax has not been paid; or,
 - (5) To transport, authorize or approve the transportation of any cigarette packages in quantities of more than six (6) cartons (sixty (60) packages) into or within the town upon which the MRCTB tax stamp has not been affixed or upon which the jurisdictional tax has not been paid, if they are:
 - a. Not accompanied by a receipt/bill of lading or other document indicating the true name and address of the consignor or seller and the consignee or purchaser and the brands and quantity of cigarettes transported; or,
 - b. Accompanied by a receipt/bill of lading or other document which is false or fraudulent in whole or part; or,
 - c. Accompanied by a receipt/bill of lading or other document indicating:
 - 1. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid unless the tax on the jurisdiction of destination has been paid and said cigarettes bear the tax stamps of that jurisdiction; or,
 - 2. A consignee or purchaser in the Commonwealth of Virginia but outside the taxing jurisdiction who does not possess a Virginia Sales and Use Tax Certificate and, where applicable, any licenses issued by the Commonwealth or local jurisdiction of destination; or,
 - (6) To reuse or refill with cigarettes any package from which cigarettes have been removed, for which the tax imposed has been theretofore paid; or,
 - (7) To remove from any package any stamp with intent to use or cause the same to be used after same has already been used or to buy, sell, or offer for sale or give away any used, removed, altered or restored stamps to any person, or to reuse any stamp which had theretofore been used for evidence of the payment of any tax prescribed by this article or to sell, or offer to sell, any stamp provided for herein; or,
 - (8) To sell, offer for sale or distribute any loose or single cigarettes; or,
 - (9) To perform any act that violates the resolutions promulgated by the board.
- (b) It shall be unlawful and a violation of the article for any person or individual to transport, possess, store, use, authorize or approve the possession, storage or use of any cigarette in quantities of more than six (6) cartons (sixty (60) packages) upon which the MRCTB tax stamp has not been affixed or upon which the jurisdictional tax has not been paid.

Sec. 14-59. Establishment of the Mount Rogers Cigarette Tax Board.

- (a) The ordinance adopted by the town council, effective May 10, 2021, pertaining to the establishment of the Mount Rogers Cigarette Tax Board is hereby made a part of this article by reference.
- (b) Any direct conflict between the powers granted to the board in the ordinance adopted by the town council, effective May 10, 2021, and herein incorporated by reference and the powers granted to the board in this article shall be resolved in favor of this article, however, the powers granted herein and in said ordinance shall be read cumulatively.
- (c) The board's fiscal year shall be from July 1 through June 30.

Sec. 14-60. Powers of the Mount Rogers Cigarette Tax Board.

The board may delegate any of its powers to its administrator or employees and may adopt regulations regarding the administration and enforcement of the provisions of this article.

- (1) In addition to those powers enumerated in the ordinance of the town council effective May 10, 2021, the Board shall be granted the following additional powers:
 - a. To sue and be sued in its own name;
 - b. To prescribe the design of a stamp(s) and to issue and sell said stamps to authorized dealers;
 - c. To establish different classes of taxpayers;
 - d. To promulgate resolutions for the assessment and collection of cigarette taxes and the enforcement of this article; and
 - e. To conduct inspections of any place of business in order to enforce the provisions of this article and all resolutions of the board.
- (2) The board may employ legal counsel, bring appropriate court action in its own name to enforce payment of the cigarette tax or penalties owed and file tax liens against property of taxpayers hereunder.
- (3) The board is authorized to enter into an agreement with the Virginia Department of Taxation under which a registered agent with the MRCTB who is also qualified to purchase Virginia Revenue Stamps, may qualify to purchase Dual Virginia—MRCTB stamps from the Virginia Department of Taxation. Authority to purchase dual Virginia—MRCTB stamps is granted solely by the board and may be revoked or suspended for violations of this article or resolutions adopted by the board.
- (4) The board may appoint certain employees as tobacco revenue agents, who shall be required to carry proper identification while performing their duties. Tobacco revenue agents are further authorized to conduct inspections of any place of business and shall have the power to seize or seal any vending machines, seize any cigarettes, counterfeit stamps or other property found in violation of this article and shall have the power of arrest upon reasonable and probable cause that a violation of this article has been committed. The board is authorized to provide its tobacco revenue agents with:
 - a. Firearms for their protection;
 - b. Emergency equipped vehicles while on duty; and
 - c. Other equipment deemed necessary and proper.
- (5) The board may exchange information relative to the sale, use, transportation, or shipment of cigarettes with an official of any other jurisdiction entrusted with the enforcement of the cigarette tax laws of said other jurisdiction.

Sec. 14-61. Jeopardy assessment.

If the administrator of the board determines that the collection of any tax, or any amount of tax required to be collected and paid under this article will be jeopardized by delay, the administrator shall make an assessment of the tax or amount of tax required to be collected and shall mail or issue a notice of such assessment to the taxpayer together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy including penalties and interest. In the case of a current period, for which the tax is in jeopardy, the administrator may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer together with a demand for immediate payment of the tax based on the period declared terminated and such tax shall be immediately due and payable, whether or not the terms otherwise allowed by this article for filing a return and paying the tax has expired

Sec. 14-62. Erroneous assessment: notices and hearings in event of sealing of vending machines or seizure of contraband property.

- (a) Any person assessed by the board with a cigarettes tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized under processes of this article, who has been aggrieved by such assessment, seizure or sealing may file a request for a hearing before the administrator for the board for a correction of such assessment and the return of such property seized or sealed.
- (b) Where holders of property interest in cigarettes, vending machines or other property are known at time of seizure or sealing, notice of seizure or sealing shall be sent to them by certified mail within twenty-four (24) hours. Where such holders of property interests are unknown at time of seizure or sealing, it shall be sufficient notice to such unknown interest holders to post such notice to a door or wall of the room or building which contained such seized or sealed property. Any such notice of seizure or sealing shall include procedures for an administrative hearing for return of such property seized or sealed and an opportunity to assert affirmative defenses.
- (c) Such hearing shall be requested in writing within ten (10) days of the notice of such assessment, seizure or sealing and the hearing request shall set forth the reasons why said tax, penalties and interest, cigarettes, vending machines or other property should be returned or released. Within five (5) days after receipt of such hearing request the administrator shall notify the petitioner by certified mail of a date and time for the informal presentation of evidence at a hearing to be held within fifteen (15) days of the date notification is mailed. Any such request for hearing shall be denied if the assessed tax, penalties and interest has not been paid as required or if the request is received more than ten (10) days from first notice to the petitioner of such seizure or sealing. Within five (5) days after the hearing, the administrator shall notify the petitioner, by registered mail, whether his request for a correction has been granted or refused.
- (d) Appropriate relief shall be given by the administrator if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent at the time said cigarettes, vending machines or other property were seized or sealed or that petitioner was authorized to possess such untaxed cigarettes. If the administrator is satisfied that the tax was erroneously assessed, the administrator shall refund the

amount erroneously assessed together with any interest and penalties paid thereon and shall return any cigarettes, vending machines or other property seized or sealed to the petitioner. Any petitioner who is dissatisfied with the written decision of the board may within thirty (30) days of the date of such decision, appeal such decision to the appropriate court in the jurisdiction where the seizure or sealing occurred.

Sec. 14-63. Disposal of seized property.

Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the board after any petitioner has exhausted all administrative appeal procedures. No credit from any sale of cigarettes, vending machines, or other property seized shall be allowed toward any tax and penalties assessed.

Sec. 14-64. Extensions.

The administrator, upon a finding of good cause may grant an extension of time to file a tax report upon written application for a period not exceeding thirty (30) days. Except as hereinafter provided, no interest or penalty shall be charged, assessed or collected by reason of the granting of such an extension.

Sec. 14-65. Penalty for violation of article.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00) or imprisonment for not more than twelve (12) months or by both such fine and imprisonment. Such fine and/or imprisonment shall not relieve any such person from the payment of any tax, penalty or interest imposed by this article.

Sec. 14-66. Each violation a separate offense.

The sale of any quantity, the use, possession, storage or transportation of more than six (6) cartons (sixty (60) packages) of cigarettes upon which the MRCTB tax stamp has not been affixed or the proper jurisdictional tax has not been paid shall be and constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.

Sec. 14-67. Severability.

If any section, phrase, or part of this article should for any reason be held invalid by a court of competent jurisdiction, such decision shall not affect the remainder of the article; and every remaining section, clause, phrase or part thereof shall continue in full force and effect.

8-F

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Resolution – George Wythe High School Tennis Team

SUMMARY:

Please find attached a resolution recognizing the George Wythe High School Tennis Team for being Runners Up in the State Championship, and also recognizing several of the Tennis Team members for placing first in the State competition. The resolution is before the Town Council for adoption at this meeting, and it is scheduled to be presented to the Tennis Team and the Coach at the July 24 Town Council meeting.

Recommended Action

Action to approve the resolution will require a motion and vote by the Town Council.

Resolution



WHEREAS, the George Wythe High School Girls Tennis Team displayed their tennis skills when the Team was named as the Region C Champions; and,

WHEREAS, the Girls Tennis Team brought great recognition to the Town of Wytheville and George Wythe High School when the Team competed at the Class 1A State Championship on June 8, 2023, at Virginia Tech and was named as the Class 1A Runners Up; and,

WHEREAS, several Team members excelled and placed in the State Championship; and,

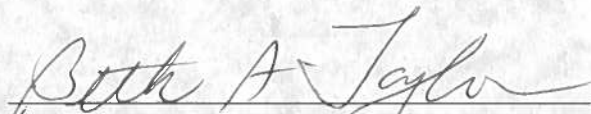
WHEREAS, Ms. Maggie Minton swung her way to victory and attained the State Champion title in the Class 1A Singles Championship, and this win made her a two time back to back State Champion; and,

WHEREAS, Ms. Camryn Hardin and Ms. Payton Rigney also persevered and won in straight sets at the Class 1A State Championship.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Wytheville, Virginia, officially commends the George Wythe High Girls Tennis Team, its Head Coach Mary Alice Watson, Assistant Coach Chuck Johnson and other high school officials.

BE IT FURTHER RESOLVED that copies of this resolution be presented to the members of the George Wythe High School Girls Tennis Team, Head Coach Mary Alice Watson, school officials and the news media.

In Witness Whereof, I have hereunto set my hand and caused the seal of the Town of Wytheville, Virginia, to be affixed this 26th day of June, two thousand twenty-three.


Beth A. Taylor, Mayor

ATTEST:


Sharon G. Corvin, CMC, Town Clerk

8-G

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Town Hunting Permits

SUMMARY:

Each year, the Town Council considers issuing annual hunting permits for up to 50 people to hunt on the Town-owned land on Sand Mountain. Please find attached a map depicting the portion of the Town’s land on which hunting is allowed. Hunting is regulated by the Virginia Department of Game and Inland Fisheries.

Recommended Action

Action to approve the issuance of the hunting permits will require a motion and vote by the Town Council.

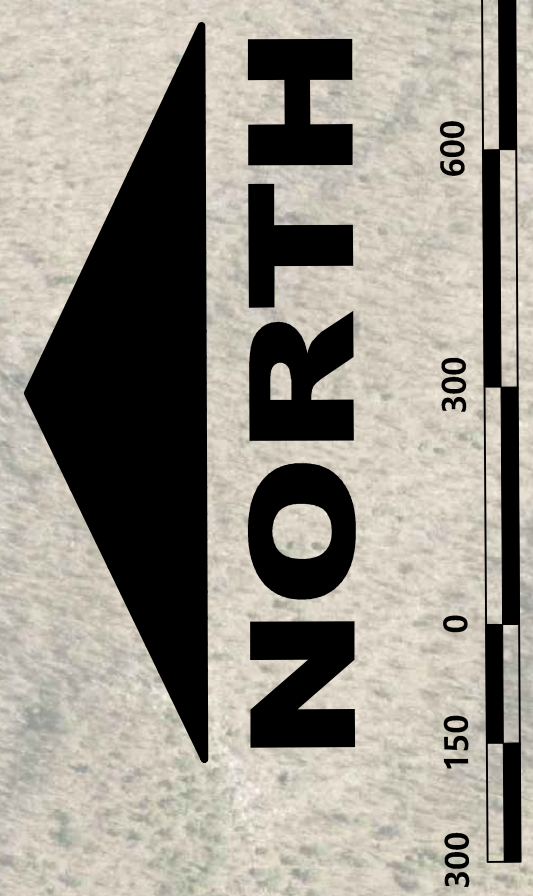
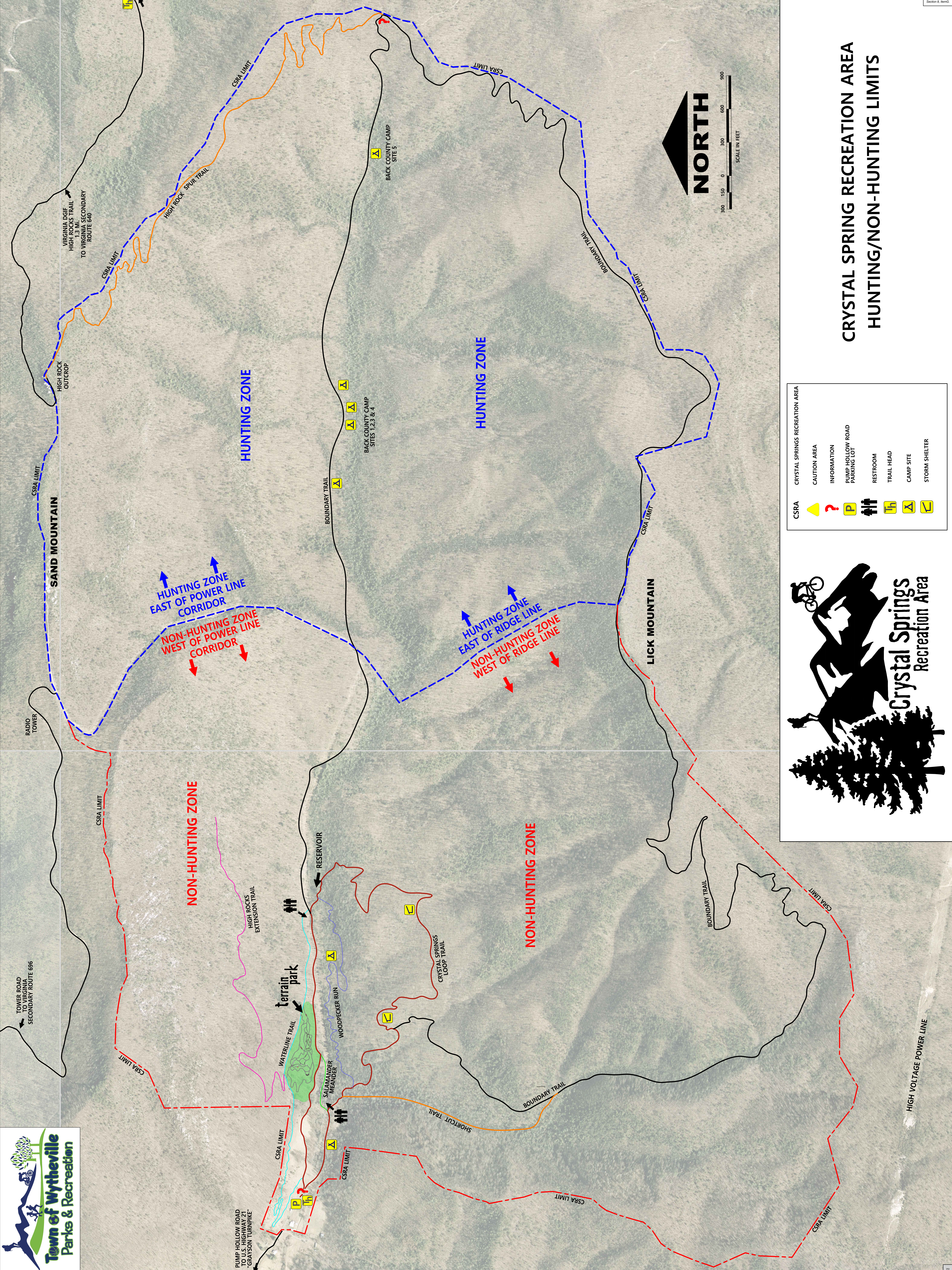
PUBLIC HEARINGS, REQUESTS, RESOLUTIONS, COUNCIL DECISIONS

JUNE 26, 2023

1. Crystal Springs Hunting Permits

For a number of years, the Town has permitted hunting on approximately half of the Town’s property on Sand Mountain known as the Crystal Springs Watershed. The other half is reserved for recreational purposes, such as walking and biking trails. The Town issues a maximum of 50 hunting permits each year. When the number of applicants exceeds 50, the permittees are chosen by lottery, and the chosen applicants are informed of the hunting regulations in effect for this property when they are issued permits.

In 2020, the hunting regulations were revised for Crystal Springs to mirror the requirements that the Department of Game and Inland Fisheries (DGIF) established for the adjacent Big Survey property. DGIF patrols the Town’s property and enforces these regulations, which helps with hunter safety. It is the recommendation of staff that Hunting Permits for the 2023 hunting season be issued.



CRYSTAL SPRINGS RECREATION AREA	
CSRA	CRYSTAL SPRINGS RECREATION AREA
	CAUTION AREA
	INFORMATION
	PUMP HOLLOW ROAD PARKING LOT
	RESTROOM
	TRAIL HEAD
	CAMP SITE
	STORM SHELTER



CRYSTAL SPRING RECREATION AREA HUNTING/NON-HUNTING LIMITS



11-A

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Staff Report(s)

SUMMARY:

Town Manager Freeman will present a Staff Report(s) on various topics.

Recommended Action

No action required at this time.

11-B

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Upcoming Meetings

SUMMARY:

Town Clerk Corvin will present the upcoming meetings to the Town Council.

Recommended Action

No action required at this time.

UPCOMING MEETINGS

1. The Town of Wytheville Municipal Offices will be closed, and all services curtailed, on Tuesday, July 4, 2023, in observance of the Independence Day holiday.
2. The next regular meeting of the Wytheville Town Council will be held at 5:00 p.m. on Monday, July 10, 2023, in the Town Council Chambers.

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12-A

**WYTHEVILLE
TOWN COUNCIL**



**AGENDA ITEM
INFORMATION**

Meeting Date:	June 26, 2023
Subject:	Town Committee/Board Upcoming Vacancies

SUMMARY:

Town Clerk Corvin will review the upcoming Committee vacancies with the Council members.

Recommended Action

No action required at this time.

COMMITTEE VACANCIES

Board of Zoning Appeals

David Harrison – Expired 9/10/22 (Not eligible for reappointment)
John Jones, Jr. – Expires 9/10/23 (Eligible for reappointment)

Building Code Appeals

Dennis Manuel – Expires 7/6/23 (Eligible for reappointment)
William Turner, III – Expires 7/26/23 (Eligible for reappointment)

Joint Industrial Development Authority

David Kause – Expires 11/10/23 (Not eligible for reappointment)

Recreation Commission

Maggie Minton (Youth Member) – Expires 8/1/23
McKenzie Tate (Youth Member) – Expires 8/1/23
Michael Mitchell – Expires 12/31/23 – (Not eligible for reappointment)

Willow Brook Jackson-Umberger Homestead Museum Advisory Board

Jean Lester – Expires 7/31/23 (Not eligible for reappointment)

Wytheville Economic Development Authority

Linda Nye – Expires 12/12/23 (Not eligible for reappointment)
Melissa Crockett – Expires 12/12/23 (Eligible for reappointment)

Wytheville Redevelopment and Housing Authority

Tommy Hundley – Expires 9/8/23 (Eligible for reappointment)
Gay Hawkins – Expires 9/8/23 (Eligible for reappointment)

12-C

Town of Wytheville

July 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
All meetings are held in the Municipal Building unless otherwise noted.	CALENDAR SUBJECT TO CHANGE					1
2	3	4 HOLIDAY—TOWN OFFICES CLOSED	5	6	7	8
9	10 5:00 PM — Town Council Meeting	11	12 5:30 PM — Recreation Commission (Recreation Center)	13 6:00 PM-Planning Commission	14	15
16	17 5:30 PM DTW (DTW Office)	18	19 12:00 PM-Housing Authority (HA Office)	20 10:00 AM — NRRWA (NRRWA Plant) 6:00 PM — District III (Marion Office)	21	22
23	24 5:00 PM — Town Council Meeting	25	26	27 10:00 AM - Homestead Museum Board (Jackson Property) 3:00 PM — JIDA	28	29
30	31					

Section 12, Item C.