

**Town of Bluefield
Town Council
Minutes
July 25, 2017**

The Bluefield, Virginia Town Council held a regularly scheduled Town Council Meeting on Tuesday, July 25, 2017 at 7:30 p.m. in the Council Chambers of the Town Hall located at 112 Huffard Drive, Bluefield, Virginia.

PRESENT

Don Harris, Mayor
Jimmy Jones, Councilmember
Ron Holt, Councilmember
Chuck Presley, Councilmember
Steve Danko, Councilmember
Lee Riffe, Vice-Mayor

ALSO PRESENT

Mike Watson, Town Manager
Matt Freedman, Town Attorney
Shane Gunter, Police Chief
Lesley Catron, Town Clerk
Kris Williams, Zoning Administrator

ABSENT

Kim Hernandez, Executive Assistant
Billie Roberts, Comm. Dev. Coordinator

CALL TO ORDER

Mayor Harris called the meeting to order at 7:37 p.m.

INVOCATION AND PLEDGE

Bill Lykins, Memorial Baptist Church led the Invocation. Mayor Harris led the Pledge of Allegiance.

APPROVAL OF AGENDA

Mayor Harris added a Resolution for Otis Mitchell under Unfinished Business and added the Capital Improvement Project under Town Manager.

Councilmember Jones made a motion to approve the amended agenda. Councilmember Presley seconded the motion. The motion passed unanimously by voice vote.

CONSENT AGENDA

Councilmember Holt made a motion to approve the consent agenda. Councilmember Presley seconded the motion. The motion passed unanimously by voice vote.

CITIZEN REQUESTS & SPECIAL PRESENTATIONS

None.

COMMITTEE REPORTS

None.

UNFINISHED BUSINESS & REPORTS

Resolution Discussion, POSSIBLE VOTE – Mike Watson

Mr. Presley made a motion to do a resolution for Otis Mitchell.

Mr. Riffe seconded the motion.

Mr. Danko stated that Otis brought the business back in the 80's and did not think they should skip that far out. He stated that his vote was no.

Mr. Riffe asked if he was willing to vote on the wall of honor.

Mayor Harris stated that was not the motion and asked if there was any more input.

Dr. Ken Murphy 180 Lynwood Drive stated that they had forgotten about Cotton Smith who was the one who built the building. He stated if anyone should be honored then it should be him. He stated that Otis was one of his favorite people but Cotton made that establishment and when Otis bought it, Cotton gave him a certain amount of money to keep the name Cotton's. He stated even after Cotton died that he left Otis a large sum on money. He stated that Otis got dementia and his son Junior abandoned him. He stated that he loved Otis and could not believe he was being treated that way. He stated that Otis disappeared and Junior would not tell but he was put in a nursing home in Abingdon. He stated that he went to see him and he had no clothes and he felt bad for him. He stated that Randy Ball and Charlie Gearhart raised money to get him some clothes. He stated that TCR's and Eagles raised money for him as well. He asked staff how many times had his son been down to see him and was told none by the officials said and Otis was there for 2 years.

Mr. Riffe rescinded his second.

Mr. Freedman stated that he could not rescind his second and that it would have to go to a vote.

ROLL CALL VOTE

Vice-Mayor Riffe:	No
Councilmember Presley:	Yes
Councilmember Holt:	Yes
Mayor Harris:	No
Councilmember Jones:	No
Councilmember Danko:	No

The motion failed 4-2 by Roll Call Vote.

NEW BUSINESS & REPORTS

Nuisance Violation Appeal, VOTE – Kris Williams

Mr. Williams stated that he had received a complaint concerning 99 Glenn Court concerning a large pile of debris that was up against the privacy fence. He stated that they were concerned about snakes and that it looked bad. He stated that he had received an appeal by Gateway, LLC owned by Rajeev Chopra for the nuisance violation. He stated that once it was appealed then it went before council to be voted on.

Mr. Watson stated that if a person questioned the decision of the Property Maintenance Official, then it went to Town Council.

Mr. Freedman stated that Mr. Chopra and his attorney were present and his attorney would like to speak to the appeal. He stated that they would probably want to hear from his attorney first before voting.

Mr. Holt asked if a complaint was made about the debris and asked how many occasions Mr. Chopra had been talked too concerning this if it was more than once.

Mr. Williams stated yes.

Blake Belcher, Attorney for Rajeev Chopra stated that he had passed out pictures and that Rajeev received a 2 day notice to appeal. He stated that 2 days was not a sufficient time frame. He stated that currently there was a deck at 99 and 101 Glenn Court and he planned to build and extend the decks but he had a limited crew. He stated that this set a bad precedent when salvageable building materials were labeled as debris. He stated that it seemed that Mr. Chopra received a lot more notices and violations than any other person selectively enforced.

Mr. Watson stated that this person was accusing the Town of inappropriately selecting him for enforcement. He stated that everything that was sent to him was sent

correctly through notices. He stated that the issue they were getting into now was whether council considered this a nuisance. He stated that they had a right to appeal through the Circuit Court.

Mr. Freedman stated that our code showed a 2 day appeal process and the way he understood it was that the appeal had expired but the Town still honored his appeal to allow him to have his day before council. He stated that the decision today was whether this fell under a nuisance violation or not.

Mr. Harris asked him to read the code section because he did not like the accusations being made that the Town was picking on someone in the community.

Mr. Freedman read the following:

Sec. 22-121. Removal of trash, garbage, refuse; collection of costs when done by town.

The owner of property within the town shall remove therefrom any and all trash, garbage, refuse, litter or other substances which may endanger the health or safety of other residents of the town upon direction by the town or its agents after inspection as provided in section 22-54. If the owner of such property shall fail to comply with reasonable notice from the town to correct such condition, the town may have such trash, garbage, refuse, litter or other substances which may endanger the health or safety of other residents of the town removed by its employees or agents. The costs or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town as taxes and levies are collected.

Mr. Freedman stated that was basically what they would be making their decision on was did it endanger the residents of the Town. He stated that what Mr. Belcher was saying was an expression of opinion and not an accusation.

Mayor Harris asked if Town Council decided to uphold the nuisance then his next recourse would be to go the Circuit Court.

Mr. Freedman stated yes that he would get a summons from the General District Court.

Mr. Jones asked him about the 2 day appeal.

Mr. Watson stated that he was given extra time.

Mr. Freedman stated that was listed in our code for the appeal.

Mr. Jones asked if he had been informed before that.

Mr. Williams stated that he received the appeal on Friday and that Mr. Chopra received the notice on July 13 so he was given several days past the 2 day appeal.

Mr. Belcher stated that he was not throwing out accusations. He stated that Mr. Freedman mentioned the health and safety of the residents and that is where they felt

there was a problem. He stated that pictures 9-11 showed waist high weeds at Kirk's Blessings and he would consider that a health and safety issue being next to a daycare. He stated that it needed to be uniform across the board. He stated that they were willing to move the construction materials but they were there to fight that it was not trash or debris.

Mr. Chopra stated that he was willing to move it and that trash was considered garbage cans, etc. He asked them to tell him what in that pile was trash.

Mr. Riffe stated that he was sure when he was done that he would reuse half of it. He stated that tall grass was an issue and that he would vote no to force him to do anything.

Mr. Freedman stated that the decision would be was this considered a nuisance.

Mr. Riffe stated no, that he did not see it as a nuisance.

Mr. Presley stated that they needed to constitute what was trash and what was not. He stated that the 2 days needed to be changed and if it was considered an eye sore then cover it with a tarp. He stated that they could not be biased towards one person. He stated that he would vote no on it as well. He stated that he did not see it as a public safety hazard.

Mr. Holt stated that he received the notice on July 13th and asked what prevented him from moving it.

Mr. Chopra stated that he needed to know what was considered trash.

Mr. Holt stated that it was whether or not it was considered a nuisance and there were property owners who felt because of this, it was driving their property value down. He stated that he tried to be fair and was giving him the benefit of doubt this time and that if he was just being difficult to be difficult, that he would not entertain that again. He stated that he had 2 weeks this time and asked him to prove that he would get rid of it.

Mr. Presley asked if they could define what the substances were such as wood, grass, etc.

Mr. Watson stated that a nuisance was different for different things such as broken concrete, high grass, etc. He stated that they could not wait for something to occur before it became a safety issue. He stated that there was no way to define everything that was considered a nuisance.

Mr. Presley asked if they could meet him out there to determine it.

Mr. Freedman stated that the only decision tonight was whether or not it was considered a nuisance.

Mr. Chopra stated to him that block or brick was acceptable and asked them to tell him what needed to be moved and he would move it. He asked what in that pile was trash.

Mr. Williams stated that he told him that it needed to be removed because the concern was a safety hazard and snakes. He stated that it had been there well over 6 months.

Mr. Freedman asked council not to get tied up in what was actually there but as to the condition of it.

Mr. Jones stated in his opinion both parties needed to be held responsible and that it needed to be resolved. He stated that he would vote no.

Mr. Danko stated that he had been around for a while and knew of a couple instances one being a pile of dirt sitting in front of a house he had bought and stated that Mr. Britton asked him more than once to move it and he would not. He stated another instance was the people in Sedgewood had asked him to move the 30-40 ft. pole light fixtures and it took him about 3 years to do it. He stated that he would go along with what Mr. Holt said and asked him to get these things taken care of so they could move forward.

Mayor Harris stated that he had driven up in that neighborhood and that all of the houses looked immaculate until he saw the one in question. He asked Mr. Williams if it had been 6 months.

Mr. Williams stated that it was at least 6 months.

Mayor Harris reminded Mr. Chopra that several years ago he did a favor for him and that he had one particular person who kept complaining. He stated that he talked to him and got him off of his back. He stated that Mr. Chopra told him that he owed him a favor. He stated that they had received numerous complaints about what Mr. Danko was talking about with the pile of dirt. He stated that Mr. Chopra told him that he would take care of it and it has been 4 years. He stated that it was a question of doing it and that they wanted to work with him but he also needed to work with the Town. He stated that yes it was a nuisance.

Mr. Watson stated that council needed to determine whether or not it was a nuisance.

Mr. Freedman stated that they needed to understand that their decision would be final.

Mr. Holt asked if it was just on this particular issue.

Mr. Freedman stated if someone were to call and ask why it was not being enforced then they could reference the appeal.

Mr. Chopra stated that he did not think this was a nuisance but he would move it. He asked for someone to tell him what needed to be moved and what could stay.

Mr. Holt stated that it was all of it not just independent stuff. He stated that it was a problem and that the total circumstances were the problem.

Mayor Harris stated that all Mr. Williams was doing was following the State and Town Code. He asked if anyone felt it was a nuisance then they needed to make a motion.

Mr. Danko recommended postponing it until they could look at it in person.

Mr. Freedman stated that this was their appeal and if they wanted to postpone it then he would like for Mr. Chopra or his counsel to put consent on file to postpone it to a later date.

Mr. Watson stated that staff needed to know what to do because this had been going on for some time.

Mr. Riffe asked if it was just completed.

Mr. Chopra stated that he had just spent \$20k on a 4 car garage.

Mayor Harris stated there was no motion on the floor and asked if they needed to make a motion.

Mr. Freedman stated if council wanted to postpone it then he would ask that it be for a short period of time. He stated that they were exercising their rights according to our ordinance. He stated that it was only a decision as to if it were a nuisance.

Mayor Harris suggested that it be tabled and brought back in 2 weeks.

Mr. Jones stated that what council was seeing was how it looked to others and asked him in the meantime to rearrange it to help the way it looked.

Mr. Chopra stated that a lot of homes had extra building materials and asked when they were going to draw the line. He stated that he felt as though he were being singled out.

Mr. Holt stated that he had a small pile of block in his yard that did not look like this. He stated that he would want him to move all of it.

Mr. Chopra asked what he could legally store in his backyard.

Mr. Holt stated that it was how he was storing it was the problem.

Mr. Chopra stated that it was subjective and was done on a case by case basis.

Mr. Holt stated that it was person to person and what they were looking at was a nuisance and a health problem.

Mr. Freedman made a suggestion and asked if Mr. Chopra withdrew his appeal allowing Mr. William's nuisance to stand then it would allow council to make a motion to give Mr. Chopra 2-3 weeks to clean it up. He stated that if it was not cleaned up by then Mr. Williams would continue with the enforcement of it because Mr. Chopra had openly in front of council withdrawn his appeal.

Mr. Chopra stated that he would withdraw his appeal and clean it up as long as it was not raining.

Mr. Freedman suggested that it be moved by August 15, 2017. He stated that council could make a motion that the debris be cleaned up and removed from the property by August 15, 2017.

Mr. Holt made a motion to approve that the debris be cleaned up and removed from the property by August 15, 2017. Mr. Danko seconded the motion.

Mr. Chopra stated that he would move it but that he would go by and look at other areas that he questioned, etc. and he would give it to them and see what the decision was made on those.

Mr. Danko stated that he just needed to let it go.

Mr. Jones said they need to make it better not worse.

Mayor Harris asked him not to "nitpick". He asked when he was going to move the pile of dirt.

Mr. Chopra stated that he was going to put a drain in and would push it into the drain when he had the money and resources to do so. He stated that he had only had the house 5-6 months.

The motion passed unanimously by voice vote.

Mr. Freedman stated that to be clear, Mr. Chopra withdrew his appeal and the decision by Mr. Williams stood.

Mr. Chopra stated yes that he would move it down to his storage lot.

Mr. Freedman asked him if that was a yes that he was withdrawing his appeal.

Mr. Chopra stated yes.

Town Clerk Reappointment, VOTE – Mike Watson

Mr. Watson stated that it was his recommendation to reappoint Mrs. Catron as Town Clerk for a 2 year appointment.

Mr. Riffe made a motion to reappoint Mrs. Catron as Town Clerk for a 2 year appointment. Mr. Holt seconded the motion.

ROLL CALL VOTE

Vice-Mayor Riffe:	Yes
Councilmember Presley:	Yes
Councilmember Holt:	Yes
Mayor Harris:	Yes
Councilmember Jones:	Yes
Councilmember Danko:	Yes

The motion passed unanimously by Roll Call Vote.

CITIZEN COMMENTS

None.

TOWN MANAGER'S REPORT

Advertising Bid for Engineering Firms (future water capital improvement project) - VOTE

Mr. Watson asked for a motion to go to bid for the advertising of Engineering Firms for the future water capital improvement project.

Mr. Presley made a motion to approve going to bid for the advertising of Engineering Firms for the future water capital improvement project. Mr. Holt seconded the motion. The motion passed unanimously by voice vote.

Advertising to seek bond council (future water capital improvement project) - VOTE

Mr. Watson asked for a motion to advertise to seek bond counsel for the future water capital improvement project.

Mr. Danko made a motion to advertise to seek bond counsel for the future water capital improvement project. Mr. Presley seconded the motion. The motion passed unanimously by voice vote.

Water Plant Intake Production

Mr. Watson stated that they should finish up this week on the water plant intake. He stated that it was to protect the intake and provide the ability for us to better produce water.

Town Council Meeting Video Update

Mr. Watson stated that he emailed a you tube link to council to get their feedback. He stated that he did receive a few comments concerning the quality of the sound. He stated that there were some ways he could work on it and make it sound better.

Employee Night at the Ballpark

Mr. Watson stated that Employee Night at the Ballpark was Saturday, July 29th and encouraged everyone to attend.

Field Fest

Mr. Watson stated that the next field fest would be on August 10th at 6 p.m.

American Red Cross Blood Drive

Mr. Watson stated that the American Red Cross would be holding a blood drive here on Tuesday, August 29th from 1 p.m. – 6 p.m. in the Council Chambers.

Tour du Parc

Mr. Watson stated that Tour du Parc was set up at Graham Rec Park and allowed 6th graders to come out and learn about the history of the park, recycling, etc. He stated that it would be held on September 29th.

VML Conference

Mr. Watson stated that VML would be held in Williamsburg this year on October 1st – 3rd. He asked council to let staff know if they planned to attend.

COUNCIL COMMENTS

Mr. Danko had none.

Mr. Jones had none.

Mr. Holt stated that the Little League Tournament was fantastic and he received many compliments on the cleanliness and friendliness of the area. He stated that the little league volunteers did an exceptional job.

Mr. Presley stated that the trees needed to be cut back near Hardees so that you could see the New Graham Pharmacy sign.

Mr. Watson stated that Mike Dye hired someone to do it and that staff would contact Mr. Dye and let him know.

Mayor Harris stated that he would mention it to him.

Mr. Riffe asked if Tazewell did Work Sessions as well.

Mr. Watson stated that he would look into it and find out.

Mr. Riffe stated that the reason he was asking was to go thru the agenda and get it together so they were running on time. He thanked Mr. Jones for attending the Quilt Show and Mr. Holt and Mr. Presley for the Little League Night. He stated that the Town looked good.

Mayor Harris thanked all of council for what they did while he was out of Town.

ATTORNEY REPORT

Facility Use Agreement – 2nd Reading, VOTE (To Read by Title Only) VOTE (To Adopt)

Mr. Freedman stated this was the 2nd Reading for the Facility Use Agreement and would be read by title only.

AN ORDINANCE ACCEPTING AND AUTHORIZING THE EXECUTION OF A CERTAIN MEMORANDUM OF UNDERSTANDING & USE AGREEMENT DATED JUNE 12, 2017, THAT IS BETWEEN THE COMMONWEALTH OF VIRGINIA AND THE TOWN OF BLUEFIELD

Mr. Jones made a motion to approve the 2nd Reading of the Facility Use Agreement by title only. Mr. Riffe seconded the motion. The motion passed unanimously by voice vote.

Mr. Freedman stated that he would need a motion to adopt it as well.

Mr. Holt made a motion to adopt the Facility Use Agreement. Mr. Presley seconded the motion. The motion passed unanimously by voice vote.

Town Managers Contract and Ordinance – 2nd Reading, VOTE (To Read by Title Only); VOTE (To Adopt)

Mr. Freedman stated this was the 2nd Reading for the Town Managers Contract and Ordinance and would be read by title only.

**AN ORDINANCE ACCEPTING AN AGREEMENT FOR THE CONTINUED
EMPLOYMENT OF THE TOWN MANAGER OF THE TOWN OF BLUEFIELD,
VIRGINIA**

Mr. Jones made a motion to approve the 2nd Reading of the Town Managers Contract and Ordinance by title only. Mr. Holt seconded the motion. The motion passed unanimously by voice vote.

Mr. Freedman stated that he would need a motion to adopt it as well.

Mr. Jones made a motion to adopt the Town Managers Contract and Ordinance. Mr. Presley seconded the motion. The motion passed unanimously by voice vote.

Proposed Comcast Cable Franchise Agreement Discussion, POSSIBLE VOTE – (To go to bid)

Mr. Freedman stated that this was the proposed Comcast Cable Franchise Agreement. He stated that Mr. Arey and Mr. Watson had worked hard on it and that the only thing Comcast would not move on was having a local channel.

Mr. Watson stated that they had gone thru this and it was probably one of the best ones with the Town. He stated that the reason there could not be a local channel was because we would have to produce it. He stated that this agreement allowed Comcast to operate in the Town with their lines, right of ways, etc. He stated that this vote was to go to bid on the Comcast Franchise. He stated that it was bid once before but that because of the timeframe, they felt it should be bid out again.

Mayor Harris stated that it seemed to be going better now.

Mr. Holt made a motion to go to bid on the Comcast Franchise Agreement. Mr. Presley seconded the motion. The motion passed unanimously by voice vote.

Mr. Freedman stated that the Draft Ordinance was brought up in a previous meeting and he wanted to bring it back up to see what council thought about it.

Mayor Harris stated that he would like for it to be brought back up and presented at the next meeting. He stated that he had some concerns about it.

Mr. Freedman stated that he would put the draft on the next agenda for council to talk about.

ADJOURN

Mr. Holt made a motion to adjourn the meeting at 9:16 p.m. Mr. Presley seconded the motion. The motion passed unanimously by voice vote.

Don Harris, Mayor

Lesley Catron, Town Clerk