

**Town of Bluefield  
Town Council  
Minutes  
August 22, 2017**

The Bluefield, Virginia Town Council held a regularly scheduled Town Council Meeting on Tuesday, August 22, 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  
Kim Hernandez, Executive Assistant  
Billie Roberts, Comm. Dev. Coordinator  
Kris Williams, Zoning Administrator  
4 Members of Public

**CALL TO ORDER**

Mayor Harris called the meeting to order at 7:30 p.m.

**INVOCATION AND PLEDGE**

Jim Drake, Parkview Baptist Church led the Invocation. Mayor Harris led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Vice-Mayor Riffe made a motion to approve the 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**

None.

## **NEW BUSINESS & REPORTS**

### ***Ashley Homestore, Request for Sign Variance, VOTE – Kris Williams***

Mr. Williams stated during a recent Planning Commission Meeting that Planning Commission voted to approve a request for a sign variance from Ashley Homestore located at 560 Commerce Drive. He stated that any sign located within the SC-1 district may apply for a special sign permit approved by the Planning Commission, and Town Council before issuance of such permit.

Mr. Presley made a motion to approve the sign variance request for Ashley Homestore. Mr. Jones seconded the motion. The motion passed unanimously by voice vote.

### ***Macado's, Inc. Site Plan Review, VOTE – Kris Williams***

Mr. Williams stated during a recent Planning Commission Meeting that Planning Commission voted to approve plans for a 1,582 square foot addition to the existing Ryan's building. He stated that any development within the SC-1 district must submit a preliminary site plan to the Planning Commission and Town Council for approval.

Mr. Holt made a motion to approve the Macado's, Inc. Site Plans. Mr. Jones seconded the motion. The motion passed unanimously by voice vote.

## **CITIZEN COMMENTS**

None.

## **TOWN MANAGER'S REPORT**

### ***Ridge Road / Route 720 Speed Study***

Mr. Watson stated that there was a memo in council's packet with the cost of \$30,475. He stated that a speed study would have to be done to verify it was a safe speed. He stated that the quote was a little higher than he thought it would be and was thinking it would be around \$8k-\$10k. He stated that he could look farther into it and see if he could find one cheaper.

Mayor Harris stated that they had not taken into consideration coming off of the East End neighborhood and that those residents were in opposition of a speed increase. He stated that it was the consensus of his fellow councilmembers to leave that road alone.

Mr. Riffe stated that he had received calls and text messages and that kids walked on Ridge Road and it should not be changed. He stated that he would like to see 720 increased to 35 mph.

Mr. Presley stated that he agreed with Mr. Riffe and asked why it was changed from 45 mph to lower.

Mr. Watson stated that he was not sure but could try and track down the reason.

Mr. Presley asked why they had to pay so much.

Mr. Watson stated that VDOT required a speed study to be done before it could be increased.

Mr. Holt stated that he agreed with the others to leave Ridge Road alone. He stated that he would like to see 720 increased if they could get a cheaper quote.

Mr. Jones agreed to leave Ridge Road alone and increase 720 depending upon the cost.

Mr. Danko asked who the person was that brought this up.

Mr. Presley stated that they talked about it a while back and a couple of councilmembers had brought it up.

Mayor Harris stated that he had received several complaints from those who received speeding tickets on Ridge Road.

Mr. Holt stated that he was the one who brought up 720.

Mr. Jones stated that a safety study could be done at no cost.

Mr. Watson stated that a Speed Study had to be done and VDOT would not do it so we would be paying for an engineer to put his stamp on it and say it was a safe speed.

### ***Fire Truck / Equipment Discussion***

Mr. Watson stated that he had been communicating with the Fire Department and that they were going to be needing a new fire truck. He stated that they had been looking for a vehicle to take out for car accidents that would have all tools and equipment needed to use on one truck. He stated that they had found one for \$45k but had not negotiated the price yet and that he would send one of our mechanics and the Fire Department out to

look at it first. He stated that it would cost an additional \$15k for other equipment as well and he would like to look into it more. He stated that he would purchase it out of the LGIP account.

Council was in agreement to move forward on this.

Mr. Watson stated that in 2019 the bucket truck would be paid off and they would start looking at replacing the 1984 truck. He stated that these guys took really good care of their equipment. He stated that he would look to shorten this loan.

Mr. Riffe asked if the Fire Department was in agreement with purchasing this truck.

Mr. Watson stated yes.

### ***Joint Meeting***

Mr. Watson stated that the Joint Meeting with the City of Bluefield would be held on Tuesday, September 5<sup>th</sup> at 6 p.m. at La Fiesta in their upstairs room instead of Fincastle because they were not open for dinner on Mondays and Tuesdays.

### ***American Red Cross***

Mr. Watson stated that the American Red Cross would be holding a blood drive at Town Hall on Tuesday, August 29<sup>th</sup> from 1 p.m. – 6 p.m. in the Council Chambers.

### ***The Two Virginias 5k Challenge***

Mr. Watson stated that the 5k Challenge would be held on Saturday, August 26<sup>th</sup> at 9 a.m. in downtown Bluefield, WV. He stated that every employee who participated would receive a paid day off.

Mrs. Roberts stated that the run would start at the clock in Bluefield, WV and end at the Gazebo downtown. She stated that the City had someone clocking everyone and the DDC would be serving water, Gatorade, etc. She stated that the City would also be setting up their inflatables and there would be music at the start and end.

### ***Town Offices Closed***

Mr. Watson stated that Town Offices would be closed on Monday, September 4<sup>th</sup> for Labor Day and that Monday's trash would be picked up on Friday, September 1<sup>st</sup>.

### ***Autumn Jamboree***

Mr. Watson stated that the Autumn Jamboree would be held on Saturday, September 9<sup>th</sup> at 9:30 a.m. in downtown Bluefield, VA.

### ***Tour du Parc***

Mr. Watson stated that Tour du Parc would be held on September 29<sup>th</sup> at Graham Rec Park starting at 9:30 a.m.

### ***VML Conference***

Mr. Watson stated that VML would be held in Williamsburg on October 1<sup>st</sup> – 3<sup>rd</sup>. He stated that they had all of council registered to attend.

### ***Police Car Donation***

Mr. Watson stated that he had sent out an email about donating a police car to the Bradshaw Police Department which we had done here and there before. He stated that he did not like to see them sold to individuals because they still resembled police cars.

Mr. Holt agreed and stated that he had seen them in other jurisdictions as well and that there was no way to get the stripes to come off completely.

All of council were in agreement of donating the police cruiser to the Bradshaw Police Department.

### ***Morefield's Tax Proposal***

Mr. Watson stated that he was contacted about a bill in the general assembly that would cut out income and personal property taxes in 7 counties that were in distress. He stated that they would need to wait until it went thru before we did a resolution.

Mr. Danko asked if it was individual.

Mr. Watson stated yes for business and personal.

Mr. Danko asked how much that would affect our income.

Mr. Watson stated that it was 1% - 3% total income for the state.

Mr. Holt stated that it would be less than 1% and he did not see it having a negative effect at all and was good for all people.

Mr. Watson stated that it was election year as well and would be interesting to see how this turned out.

Mr. Holt stated that someone was thinking outside of the box and this would bring us out of the box.

Mayor Harris stated that they discussed it on Friday during their Legislative Committee Meeting.

### **COUNCIL COMMENTS**

Mr. Danko asked for an update on Leatherwood.

Mr. Watson stated that he had a conversation with the group and they were in the process of designing the roads and were negotiating the permit to break limited access. He stated that VDOT had made an offer and Leatherwood counter offered but neither were close in price. He stated that he planned to make a few phone calls to see if he could assist in anyway but as of right now, they were at the same point as they were designing roads and looking at cost. He stated that when you break limited access you had to go thru engineering to get it approved and they designed the roads then VDOT had to approve because it was on their Right of Way. He stated that in order to use VDOT Right of Way, it was required from the legislation to compensate them for the property increase in value based on the change. He stated that they would appraise the property now and look at the entire development built out at 100% and take the difference between the future appraisal down the road and the current appraisal now. He stated that the difference is what they would pay VDOT. He stated that staff was communicating with them on a regular basis but as of right now the design had not been approved that he was aware of and the value in which they had to reimburse was \$300k+.

Mr. Danko stated that Doug had to replace \$300k.

Mr. Watson stated yes they would have to write a check for \$300k in order to use VDOT's property. He stated that it was their permitting fee to use VDOT's Right of Way and they could sale it for whatever they wanted too.

Mr. Jones had none.

Mr. Holt stated that the Eclipse Party was great and these types of events were good. He thanked Mr. Watson and staff for opening up the Chambers to the Sheriff's Department for a meeting. He stated that he would like to see the employees of the Town further themselves by attending the class he mentioned at Virginia Tech. He asked Mr. Watson if he had looked into it.

Mr. Watson stated yes and that the cost was \$6,500 per person for a 6 month class. He stated that you did not have to have a 4 year degree but it was preferred and was a certificate program. He stated that the Town now budgeted \$5k for employees who attended school but they had to sign an agreement to stay for a certain amount of time. He stated that he would do more research on it.

Mr. Holt stated that it would be beneficial and encouraged council to look at it as well. He stated that he had the opportunity to work with our Fire Department and he could not brag on them enough and stated that there was no comparison.

Mr. Presley agreed that the Eclipse Party was good. He stated that he had people asking him if they could tailgate in Virginia since there was a charge now to set up in Bluefield, WV.

Mr. Watson stated that it was all owned by the City of Bluefield and that a few years ago we asked if we could take over the grassy area and man it and was told no. He stated that there were different rules in Virginia regarding alcohol.

Mr. Presley asked for a paving update.

Mr. Watson stated that it would be starting in mid-September.

Mr. Presley thanked staff for fixing the hole that was on his street.

Mr. Watson stated that it had collapsed.

Mr. Presley asked for a Budget Work Session in the next month. He stated that next Tuesday at 4 p.m. he along with Mr. Watson and Chief Gunter would be meeting with citizens regarding the break-ins. He stated that the citizens had some ideas.

Mr. Riffe stated that he really enjoyed the Eclipse Party and that the Hockman Pike Bridge area looked good.

Mr. Watson stated that staff was still working on it.

Mr. Riffe stated that he had seen pictures where a bear was in that area now and that when they called the Department of Gaming they would not come out. He asked if they could do something to help renters. He stated that they needed a tighter ordinance on these properties because there were some out of control. He asked for a PIC Award Update.

Mr. Watson stated that they would put something together and that he and Mr. Freedman had just discussed rental property. He stated that several years ago they drafted something and sent it to the Planning Commission. He stated that they did not want to make an extensive list for them and that we did not know anything was wrong unless someone complained.

Mr. Riffe thanked Pastor Drake for all he did for the community and stated at one time it was mentioned about putting together a ministerial group to do the invocation at our meetings. He stated that it would be nice if we could get a local pastor to help us get others more involved.

Mayor Harris stated that 3 years ago we asked the City for the grassy area on the Virginia side to use for non-alcoholic tailgating but they were not receptive. He stated during his last VML Meeting they talked about adopting medical marijuana in the Commonwealth of Virginia. He stated that it would be presented to the Legislators and

was up to them to vote on it. He stated that last summer in Las Vegas there was a convention of computer hackers who broke into voting machines. He stated that the State Board of Elections may be removing some of those machines and that it would be talked about during VML.

## **ATTORNEY REPORT**

### ***Draft of Revision / Amendment to Business License Tax Ordinance, Discussion***

Mr. Freedman stated that this would be a discussion regarding revisions to the Business License Tax Ordinance. He stated as of yesterday we had \$13k in delinquencies for the Town and he had sent out 15 letters. He stated that this could be punishable by a misdemeanor penalty. He stated that the Treasurer could do a distress and take money from the business by seizing furniture, etc. He stated that he had already talked with Mr. Watson and Mr. Hampton concerning this and this would encourage them to pay. He stated that Section 50-109. Willful failure to file return; penalty was the new section created. He stated that the second amendment was 50-96. Procedure for obtaining license; penalty for failure to obtain license. He stated that if it was not paid then they would not receive another business license so they would be operating without a license.

Mayor Harris stated that it sounded good and that everyone should pay.

Mr. Riffe stated that \$13k was a good chunk of money.

Mr. Holt stated that it would be a Class II Misdemeanor.

Mr. Freedman stated yes to operate without a license, up to \$1k fine and 6 months in jail. He stated that he got a pretty good response with the letters he sent out.

Mr. Riffe asked if these were repeat offenders.

Mr. Freedman stated yes.

Mr. Watson stated that they had to file each year for a business license and there was a couple who were repeat offenders. He stated that this would put them in front of a judge who would either reduce it or dismiss it. He stated that it was not real estate or personal property but only business tax.

Mr. Freedman stated that he would prepare it for the 1<sup>st</sup> Reading at the next meeting.

Mr. Jones stated that he had received a scam call claiming to be from the IRS. He asked if there was anything they could do to help the citizens not fall for it.

Mr. Freedman stated that it could be put in the next newsletter and that it had already been brought up in the media.

Mr. Holt suggested waiting and putting it in the spring newsletter with tax season.

The following is the Draft of Revision / Amendment to Business License Tax Ordinance:

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

AN ORDINANCE TO CREATE, BY CREATING SECTION 50-109 OF DIVISION 1 (GENERALLY) OF ARTICLE III (LICENSE TAXES) OF CHAPTER 50 (TAXATION) OF THE CODE OF ORDINANCES, TOWN OF BLUEFIELD, VIRGINIA.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that section 50-109 of Division 1 of Article III of Chapter 50 of the Code of Ordinances, Town of Bluefield, Virginia is hereby created to read as follows:

Sec. 50-109. Willful failure to file return; penalty.

(a) Any person, business, or entity, not otherwise exempted by law, who willfully fails or refuses to file a return as required under this article shall be guilty of (i) a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00 or (ii) a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less.

(b) Any person, with the intent to defraud, who willfully makes any false statement upon a return filed pursuant to this article shall be guilty of a (i) Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00 or (ii) a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less.

(c) Each violation of this section shall constitute a separate and distinct offense. Conviction of any such violation shall not relieve any person from the payment, collection, or remittance of the tax provided for in this article.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia adopts this ordinance on this \_\_\_\_ day of \_\_\_\_\_, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance shall be effective on the \_\_\_\_ day of \_\_\_\_\_, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia authorizes Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, to execute this ordinance on behalf of said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this \_\_\_\_ day of \_\_\_\_\_, 2017.

PUBLIC HEARING:

FIRST READING:

SECOND READING:

ADOPTION DATE:

EFFECTIVE DATE:

FINAL RECORDED VOTE: \_\_\_\_\_

MEMBERS PRESENT: \_\_\_\_\_  
MEMBERS ABSENT: \_\_\_\_\_  
RESULT OF VOTE: \_\_\_\_\_  
AYES                      NAYES                      ABSTENTIONS

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY: \_\_\_\_\_  
DONALD R. HARRIS, MAYOR                      DATE  
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST:

\_\_\_\_\_  
LESLEY CATRON, TOWN CLERK                      DATE  
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

AN ORDINANCE TO AMEND, BY AMENDING SECTION 50-96 OF DIVISION 1 (GENERALLY) OF ARTICLE III (LICENSE TAXES) OF CHAPTER 50 (TAXATION) OF THE CODE OF ORDINANCES, TOWN OF BLUEFIELD, VIRGINIA.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that section 50-96 of Division 1 of Article III of Chapter 50 of the Code of Ordinances, Town of Bluefield, Virginia is hereby amended to read as follows:

Sec. 50-96. Procedure for obtaining license; penalty for failure to obtain license.

(a) (1) Every person shall annually apply in writing for a license for each business or profession when engaging in a business in this jurisdiction if:

- a. The person has a definite place of business in this jurisdiction;
- b. There is no definite place of business and the person resides in this jurisdiction; or
- c. There is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to Code of Virginia, § 58.1-3715, or public service corporation.

(2) A separate license shall be required for each definite place of business and for each business.

(3) A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all the following criteria are satisfied:

- a. Each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction;

b. All of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and

c. The tax payer agrees to supply such information as the treasurer may require concerning the nature of the several businesses and their gross receipts.

(b) Upon receipt of such written application, the town treasurer shall furnish license application forms in triplicate, which forms shall state the following:

(1) The definite place or house where the business, employment, or profession is to be prosecuted;

(2) The name of the applicant, the residence address of the applicant;

(3) Whether the applicant is an individual, a firm or a corporation, whether domestic or foreign, and if foreign, the date of its authority to do business in the state, issued by the state corporation commission;

(4) The nature of the business, employment or profession for which the applicant for a license is made;

(5) The number of years the applicant has prosecuted in this town such a business, employment or profession in appropriate cases, the amount of gross receipts of such business, profession, trade or occupation for the last preceding year, except as in the case of beginning business as defined in this article; and

(6) Such other information as may be required by the town treasurer.

(c) Every applicant for a license shall have incorporated therein or annexed thereto the affidavit of the applicant to the effect that the statements contained in the application are true:

(1) If the applicant is an individual, the affidavit must be made by him;

(2) If a firm, by one of the members; and

(3) If a corporation, by the officer having knowledge of the correctness of the statements made in the application.

(d) Upon the receipt of every application for a license, the town treasurer, if satisfied of its correctness, shall compute the tax and shall issue a license to the applicant to prosecute the business, employment or profession named in the application. No license issued by the town treasurer shall be valid nor have any legal effect unless and until the tax prescribed by this article is paid to the town treasurer; proof of such payment shall appear on the face of the license. No license issued by the town treasurer shall be valid nor have any legal effect for a period greater than one (1) year from the issue date. The town treasurer shall retain two copies of the completed license application form and furnish the applicant with the original, the license being noted thereon.

(e) The town treasurer shall furnish the license with such tag, button, or sign as may be appropriate for display as evidence that a valid license has been issued.

(f) A separate license shall be obtained by each member of a firm or company of persons practicing any profession or calling which is regulated by the laws of the state for practicing of which professions or calling a license is required by this article.

(g) It shall be unlawful for any person, business, or entity, who is not otherwise exempted by law, to transact, conduct, or engage in any activity for which a license tax is required under this article without first obtaining a valid license from the town treasurer, or after having obtained the necessary license, to continue to do so for longer than one (1) month after the expiration thereof.

(1) A violation of this subsection shall constitute a Class 2 misdemeanor;

(2) Each day a violation hereunder occurs or continues shall constitute a separate and distinct offense; and

(3) A conviction for such offense shall not relieve any person from the payment of any license tax required by this article.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia adopts this ordinance on this \_\_\_\_ day of \_\_\_\_\_, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance shall be effective on the \_\_\_\_ day of \_\_\_\_\_, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia authorizes Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, to execute this ordinance on behalf of said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this \_\_\_\_ day of \_\_\_\_\_, 2017.

PUBLIC HEARING:  
 FIRST READING:  
 SECOND READING:  
 ADOPTION DATE:  
 EFFECTIVE DATE:  
 FINAL RECORDED VOTE: \_\_\_\_\_  
 MEMBERS PRESENT: \_\_\_\_\_  
 MEMBERS ABSENT: \_\_\_\_\_  
 RESULT OF VOTE: \_\_\_\_\_

AYES	NAYES	ABSTENTIONS
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COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY: \_\_\_\_\_ DATE \_\_\_\_\_  
 DONALD R. HARRIS, MAYOR  
 TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST:

\_\_\_\_\_  
 LESLEY CATRON, TOWN CLERK DATE  
 TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

***Carbaugh Real Estate Interest and Deed, VOTE – To Authorize the expenditure of \$15,000, VOTE - To Accept Real Estate Interest & Deed, and VOTE – To Authorize Mayor’s Signature on Deed (attached at the end of the minutes)***

Mr. Freedman stated that this real estate was in acquisition of the High Street Project. He stated that they could vote on them all in one motion if council would like. He stated that it would be a motion to authorize the expenditure of \$15,000, to accept real interest & deed and to authorize the mayor’s signature on the deed.

Mr. Presley made a motion to authorize the expenditure of \$15,000, to accept real interest & deed and to authorize the mayor's signature on the deed. Mr. Jones 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.

#### ***Noise Ordinance, VOTE – Authorize 1<sup>st</sup> Reading***

Mr. Freedman stated that the only change that was made to the Noise Ordinance was the time frame. He stated that it changed to be from the following times: 10:30 p.m. – 6 a.m. He stated that he would read it in its entirety in the back of the room.

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE 12TH DAY OF SEPTEMBER, 2017.

AN ORDINANCE TO CREATE, BY CREATING ARTICLE IX (NOISE) OF CHAPTER 30 (OFFENSES) OF THE CODE OF ORDINANCES, TOWN OF BLUEFIELD, VIRGINIA

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that Article IX of Chapter 30 of the Code of Ordinances, Town of Bluefield, Virginia is hereby created to read as follows:

#### ARTICLE IX. NOISE

##### Sec. 30-256. Purpose.

The purpose of this article and the sections therein is to provide a means of reasonably regulating certain noise within the corporate limits of the Town of Bluefield in order to preserve the health, safety, and welfare of the citizens of the Town of Bluefield.

##### Sec. 30-257. Authority.

This article and the sections therein are adopted pursuant to the authority described in sections 15.2-980, 15.2-1102, 15.2-1429, and 15.2-1700 of the Code of Virginia (1950) as amended.

##### Sec. 30-258. Definitions.

The term "device", when used in this article, shall mean any object which is designed, intended, or in fact does produce any noise when operated or used.

The term "instrument", when used in this article, shall mean any musical instrument, radio, compact disc player, amplifier, television set, or other similar device which produces or reproduces noise of any type.

The term "moped", when used in this article, shall have the same meaning as defined in section 46.2-100 of the Code of Virginia (1950) as amended.

The term “motorcycle”, when used in this article, shall have the same meaning as defined in section 46.2-100 of the Code of Virginia (1950) as amended.

The term “motor vehicle”, when used in this article, shall have the same meaning as defined in section 46.2-100 of the Code of Virginia (1950) as amended.

The term “noise”, when used in this article, shall mean the intensity, frequency, duration, or character of sounds from single or multiple sources.

The term “person”, when used in this article, shall mean any individual, partnership, corporation, association, society, club, group of people acting in concert, entity, or organization.

The term “person” shall not include any governmental entity, governmental agency, or governmental institution.

The term “plainly audible”, when used in this article, shall mean when noise can be heard by the human ear without the aid of any hearing aid or faculty.

The term “public property”, when used in this article, shall mean any property maintained by a governmental entity, governmental agency, or governmental institution within the corporate limits of the Town of Bluefield. Such term shall be deemed to include, but not be limited to, streets, highways, alleys, walkways, sidewalks, sitting areas, parks, transits, parking lots, buildings, structures, doorways, and monuments.

The term “public activity”, when used in this article, shall mean any activity on behalf of or sponsored by a governmental entity, governmental agency, or governmental institution within the corporate limits of the Town of Bluefield.

The terms “religious service”, “religious act”, or “religious event”, when used in this article, shall mean any service, action, activity, or event connected to any religion which is supported by a sincere belief of any person or persons.

The term “sound”, when used in this article, shall mean an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at a finite speed. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

Sec. 30-259. Prohibited conduct; penalty.

It shall be unlawful for any person, within the corporate limits of the Town of Bluefield, to:

- (1) use, operate, utilize, or play any instrument or similar device, between the hours of 10:00 p.m. and 6:00 a.m. eastern standard time, in such a manner (i) that noise produced or reproduced thereby is plainly audible from the inside of a dwelling of another or (ii) that noise produced or reproduced thereby is plainly audible from a distance of at least one hundred and fifty (150) feet;
- (2) use or operate any instrument from the inside of a moped, motor vehicle, or motorcycle when such instrument produces or reproduces noise and is plainly audible from a distance of at least one hundred and fifty (150) feet;
- (3) yell, shout, whistle, or sing, between the hours of 10:00 p.m. and 6:00 a.m. eastern standard time, in such a manner that such yelling, shouting, whistling, or singing (i) is plainly audible from the inside of a dwelling of another or (ii) is plainly audible from a distance of at least one hundred and fifty (150) feet; or
- (4) use, utilize, or operate any pneumatic hammer, chainsaw, or lawnmower, between the hours of 10:00 p.m. and 6:00 a.m. eastern standard time, in such a manner that such pneumatic hammer, chainsaw, or lawnmower (i) is plainly audible from the inside of a dwelling of another or (ii) is plainly audible from a distance of at least one hundred and fifty (150) feet.

A violation of this section shall constitute a Class 3 misdemeanor.

In lieu of the criminal penalty set forth in this section, a violation of this section may be punishable by a civil penalty of \$50.00.

Each day a violation of this section occurs or continues shall constitute a separate and distinct offense, and may be punishable as such.

Sec. 30-260. Exceptions.

The prohibitions set forth in this article shall not apply to (i) any noise or sound produced or reproduced that is necessary to protect or preserve the property, health, safety, life, or limb of any person; (ii) any noise or sound produced or reproduced that is connected to any public speaking, public assembly, or public expression on public property; (iii) any noise or sound produced or reproduced by any police, fire, emergency, or government employee performing their duties during the course of their employment; (iv) any noise or sound produced or reproduced at a public activity; (v) any noise or sound produced or reproduced during a religious service, religious act, or religious event; (vi) any noise or sound produced or reproduced by a locomotive, railroad equipment, or aircraft; (vii) any noise or sound produced or reproduced by military activities of the Commonwealth of Virginia or the United States of America; (viii) any noise or sound produced or reproduced by a business upon property being actively used for business purposes, manufacturing purposes, or industrial purposes; and (ix) any noise or sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy or any division thereof.

Sec. 30-261. Enforcement.

It shall be the duty of the Police Department of the Town of Bluefield to enforce this article.

Sec. 30-262. Severability.

If any section, provision, or portion of this article is held to be invalid by a court of competent jurisdiction, then that decision shall in no way affect the remaining sections, provisions, or portions of this article. The invalid section, provision, or portion thereof shall be severable.

Secs. 30-263—30-293. Reserved.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia adopts this ordinance on this 12th day of September, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance shall be effective on the 12th day of October, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia authorizes Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, to execute this ordinance on behalf of said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this 12th day of September, 2017.

PUBLIC HEARING:	NONE
FIRST READING:	08/22/2017
SECOND READING:	09/12/2017
ADOPTION DATE:	09/12/2017
EFFECTIVE DATE:	10/12/2017
FINAL RECORDED VOTE:	_____
MEMBERS PRESENT:	_____
MEMBERS	_____
ABSENT:	_____
RESULT OF VOTE:	_____
	AYES                      NAYES                      ABSTENTIONS

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY: \_\_\_\_\_ DATE \_\_\_\_\_  
DONALD R. HARRIS, MAYOR  
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST:

\_\_\_\_\_  
LESLEY CATRON, TOWN CLERK DATE  
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

Mr. Holt made a motion to approve the 1<sup>st</sup> Reading of the Noise Ordinance. Mr. Presley seconded the motion.

ROLL CALL VOTE

Vice-Mayor Riffe:	No (he stated that he would like to see if be a later start time)
Councilmember Presley:	Yes
Councilmember Holt:	Yes
Mayor Harris:	Yes
Councilmember Jones:	Yes
Councilmember Danko:	Yes

The motion passed 5-1 by Roll Call Vote.

**EXECUTIVE SESSION**

Councilmember Holt made a motion to enter into Executive Session pursuant to Code of Virginia Section 2.2-3711-A-1.3 and Mrs. Catron read:

Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Councilmember Presley seconded the motion. The motion passed unanimously by voice vote.

Council entered into Executive Session at 8:38 p.m.

Councilmember Danko made a motion to enter out of Executive Session. Councilmember Presley seconded the motion. The motion passed unanimously by voice vote.

Councilmember Presley made a motion to adopt the following resolution certifying the Executive Session and Mrs. Catron read:

WHEREAS, the Town Council of Bluefield, Virginia has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with provisions of the Virginia Freedom of Information Act; and WHEREAS, Section 2.2-3712-D of The Code of Virginia requires a certification by the Town Council of Bluefield, Virginia that such session was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Bluefield, Virginia hereby certifies that, to the best of each members knowledge, (I) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Town Council.

Adopted this 22<sup>nd</sup> day of August.

Councilmember Riffe 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.

#### ADJOURN

Mr. Danko made a motion to adjourn the meeting at 9:30 p.m. Mr. Presley seconded the motion. The motion passed unanimously by voice vote.

---

Don Harris, Mayor

---

Lesley Catron, Town Clerk

2434

BA 2017 PG 12722

THIS INSTRUMENT PREPARED BY:  
MATTHEW CHASE FREEDMAN (VSB #78496)  
TOWN ATTORNEY  
TOWN OF BLUEFIELD  
112 HUFFARD DRIVE  
P.O. BOX 1026  
BLUEFIELD, VA 24605

TAX MAP ID NO. 024A2A 0004  
PURCHASE PRICE: \$15,000.00  
TAX ASSESSED VALUE: \$10,000.00

RETURN TO ADDRESS OF GRANTEE AFTER RECORDATION:

TOWN OF BLUEFIELD  
112 HUFFARD DRIVE  
BLUEFIELD, VA 24605

THIS DEED IS EXEMPT FROM GRANTEE RECORDATION TAXES PURSUANT TO SECTION 58.1-811(A)(3) OF THE CODE OF VIRGINIA (1950) AS AMENDED.

**THIS DEED** is made and entered into on the 18th day of August, in the year 2017, by and between **THELMA MAE CARBAUGH**, a widow; **RONALD BARRY CARBAUGH** and **NANCY ELIZABETH CARBAUGH**, husband and wife; the **GRANTORS**, and the **TOWN OF BLUEFIELD**, a Virginia Municipal Corporation; the **GRANTEE**.

WITNESSETH:

That for and in consideration of the sum of FIFTEEN THOUSAND AND 00/100 DOLLARS (\$15,000.00), cash in hand paid by the said Grantee, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the said Grantors do hereby grant and convey unto the said Grantee, with Covenants of General Warranty of Title, all the hereinafter described real estate, together with the improvements thereon and the appurtenances thereunto belonging, being illustrated as PARCEL 4 upon a map intended to be recorded simultaneously herewith and entitled "MAP SHOWING PARCELS 5 & 7 TAX MAP 24A2 HIGH STREET TOWN OF BLUEFIELD, TAZEWELL COUNTY, VA" with a scale of 1" = 60', dated 5-16-16, with revisions dated 10-7-16, as prepared by Appalachian Engineering & Surveying, Inc., 212 College Avenue, Bluefield, West Virginia, 24701. The said real estate is located in the Town of Bluefield, Tazewell County, Virginia, and the entirety of the said real estate is more particularly bounded and described as follows, to wit:

"BEGINNING at a corner of stone wall in the northern right-of-way line of High Street, said wall being the southeast corner of Parcel 43A and the southwest corner of Parcel 4 and the herein described tract; thence leaving said right-of-way and along the eastern line of Parcel 43A N 02°15'00" E 200.00 ft. to a rebar (set); thence along the southern line of Parcel 43 N 88°00'00" E 100.00 ft. to a rebar (set), thence along the southeast line of Parcel 43 N 55°47'07" E 78.97 ft. to a metal fence post (found); thence along the western line of Parcel 5 S 03°35'13" W 232.04 ft. to a corner of stone wall in the northern right-of-way line of High Street, thence along said right-of-way S 84°11'04" W 159.40 ft. to the point of BEGINNING and containing 0.75 acre more or less."

SI PLAT BOOK 52 AGE 47

And being the same real estate conveyed to Ronald Barry Carbaugh and Nancy Elizabeth Carbaugh as tenants by the entirety with full and complete rights of survivorship as at common law by way of a certain deed of gift from Donald Carbaugh dated January 31, 2007, and recorded in the land records of the Clerk's Office of the Circuit Court of Tazewell County, Virginia in Deed Book 993 at Page 543.

It should be noted for the record that Thelma Mae Carbaugh was married to Donald Carbaugh at the time of the conveyance shown of record in the aforesaid Clerk's Office in Deed Book 993 at Page 543. It should also be noted for the record that Thelma Mae Carbaugh was not included as a Grantor in that said conveyance, and that Donald Carbaugh is now deceased and passed from this life in the year 2011. It should further be noted for the record that Thelma Mae Carbaugh joins in this deed as a Grantor to convey unto the said Grantee any, if any, interest she may hold in the aforesaid real estate by virtue of marriage.

This conveyance is made subject to all the rights, privileges, easements, reservations, and restrictions of record in the aforesaid Clerk's Office to the extent the same may lawfully affect the property herein conveyed, and subject to such matters as would be revealed by a careful inspection of the premises.

The said Grantee, by an affirmative majority vote of the Council of the Town of Bluefield, Virginia on the 22nd day of August, 2017, and by joining in this deed through signature of its authorized representative, accepts this deed and the interest in real estate conveyed by this deed pursuant to section 15.2-1803 of the Code of Virginia (1950) as amended.

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WITNESS the following signatures and seals

*Thelma M. Carbaugh* (SEAL)  
THELMA MAE CARBAUGH

*Ronald Barry Carbaugh* (SEAL)  
RONALD BARRY CARBAUGH

*Nancy Elizabeth Carbaugh* (SEAL)  
NANCY ELIZABETH CARBAUGH

COMMONWEALTH OF VIRGINIA  
COUNTY OF TAZEWELL. to wit:

The foregoing instrument was acknowledged before me by Thelma Mae Carbaugh, Ronald Barry Carbaugh, and Nancy Elizabeth Carbaugh, the Grantors, on this 18<sup>th</sup> day of August, 2017.

*Brittanie C. Hubbard*

NOTARY PUBLIC  
MY COMMISSION EXPIRES: 01/31/2019  
REGISTRATION NUMBER: 7658697



(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)  
(ADDITIONAL SIGNATURES SHOWN ON THE FOLLOWING PAGES)

TOWN OF BLUEFIELD  
A VIRGINIA MUNICIPAL CORPORATION

BY: Donald R Harris (SEAL)  
DONALD R. HARRIS

ITS MAYOR

COMMONWEALTH OF VIRGINIA  
COUNTY OF TAZEWELL, to wit:

The foregoing instrument was acknowledged before me by Donald R. Harris, the Mayor of the Town of Bluefield, a Virginia Municipal Corporation, on this 23<sup>rd</sup> day of August, 2017.



Brittnie C Hubbard  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: 01/31/2019  
REGISTRATION NUMBER: 7658697

ATTEST:

Lesley Catron  
LESLEY CATRON, TOWN CLERK

COMMONWEALTH OF VIRGINIA  
COUNTY OF TAZEWELL, to wit:

The foregoing instrument was acknowledged before me by Lesley Catron, the Town Clerk of the Town of Bluefield, a Virginia Municipal Corporation, on this 23<sup>rd</sup> day of August, 2017.



Brittnie C Hubbard  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: 01/31/2019  
REGISTRATION NUMBER: 7658697

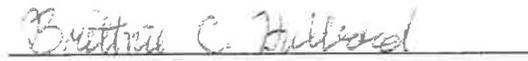
THIS DEED APPROVED AS TO FORM BY:



MATTHEW CHASE FREEDMAN (VSB #78496)  
TOWN ATTORNEY  
TOWN OF BLUEFIELD  
112 HUFFARD DRIVE  
P.O. BOX 1026  
BLUEFIELD, VA 24605

COMMONWEALTH OF VIRGINIA  
COUNTY OF TAZEWELL, to wit:

The foregoing instrument was acknowledged before me by Matthew Chase Freedman, the Town Attorney of the Town of Bluefield, a Virginia Municipal Corporation, on this 18<sup>th</sup> day of August, 2017.

  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: 01/31/2019  
REGISTRATION NUMBER: 7655697



IN WITNESS WHEREOF, I have hereunto set my hand and the seal of my office, this 18th day of August, 2017, at Bluefield, Virginia.  
