

Virginia: At the regular meeting of the Council of the Town of Chilhowie held at the Municipal Building, November 14, 2019 at 7:00 p.m.

Present: Honorable Gary L. Heninger, Mayor presiding; Councilors Donna S. Blevins, Billy L. Clear, Alan W. Counts, Emily B. Dungan, J. Brent Foster, and Lewis W. Shortt, Jr.

Absent: None.

Also Present: Mr. John E.B. Clark, Jr., Town Manager; Mrs. Marlene L. Henderson, Clerk/Treasurer, MMC; Messrs. Paul Cassell, Town Attorney; Stephen W. Price, Police Chief; C. David Haynes, Fire Chief; C. Randy Sturgill, Building Official and Ron Cahill, Recreation and Special Events Coordinator.

Mayor Heninger called the meeting to order. Randy Sturgill gave the Invocation. The Pledge of Allegiance was recited.

Approval of Minutes:

Motion by Brent Foster, second by Donna Blevins Council adopts the regular October 10, 2019 and Special Called October 17, 2019 meeting minutes. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

Citizens Time:

No one wished to speak.

Public Hearing:

Mrs. Marlene Henderson, Clerk/Treasurer, presented the following:

Public Hearing Notice –Town of Chilhowie

The Town of Chilhowie will hold a public hearing on November 14th at 7:00 p.m. at the Town of Chilhowie Town Hall at 325 East Lee Highway to solicit public input in relation to an application for Virginia Department of Transportation Transportation Alternatives (T.A.) funding for a project in Town.

Information on the amount of funding, Town obligations, and other relevant information related to the project will be presented. Interested

citizens are urged to attend. For additional information contact John Clark, Town Manager at 646-3232.

If you plan to attend and have any special needs requirements, please call the number listed above.

Mayor Heninger opened the Public Hearing at 7:02 p.m.

Scott McCoy Hello, my name is Scott McCoy and I work for Mount Rogers Planning District Commission, and from my understandings this will be phase two of the Sidewalk Project. Phase one has been recently completed. I will be Project Manager and Angela; my co-worker will be working with me on that as well as working with John. Do you all have any questions for me?

Mayor Heninger Does everyone know where the sidewalk is going to be?

John Clark If you will look in your agenda packet, of course we are fortunate to have Angela work with us on many successful projects, and we look forward to having the same relationship with Scott. If you look on agenda page 19 through 23 and on the Town Manager's Report, page 13 and 14, you have the sketch there. From Church Avenue to the North side of Lee Highway and then to Second Avenue and then on the west side of Second Avenue and tie into the Downtown Project; that is on page 18.

The cost estimates are on page 17. We have been looking at a project of about 850 feet in the \$285,000 range. The Engineer Administrative cost of around \$160,000 with a total project estimate of \$461,371. Angela and Scott think this is very fundable. Tim Mullins put some figures together and he has met with Virginia Department of Transportation and they really like the project. If Council votes to go forward we are probably looking at next fiscal year about \$18,000 for engineering, which is engineering cost \$87,000 but it is 20% that the Town has to pay. Construction would be 2021-2022 and maybe we can do it quicker. Our cost would be in the \$70,000 range, which is 20% of \$350,000.

Mayor Heninger Does anyone have anything to say on this?

Scott McCoy Thank you for your time.

Mayor Heninger Anybody else have anything?

Mayor Heninger closed the Public Hearing at 7:05 p.m.

Old Business:

- Council/Staff Comments on East Lee Highway II Project –

Motion by Brent Foster, second by Lewis Shortt Council proceeds with the project and authorizes the Mayor and Town Manager to execute documentation. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

- Submission of Final Rural Development Pay Request on Farmers Market Project and Report – Dennis Amos, Hurt and Proffitt, reported this is the final pay request for the project. The project has been very successful and a good example of teamwork. The remaining work on the site is being completed by the Town as a measure of saving funds. The Final Pay Request is in the amount of \$16,650 for the Contractor, Taylor Construction and \$5,000 for Mount Rogers Planning District Commission for a total of \$21,650.

Randy Sturgill, Building Official, reported power will be supplied to the structure within the next two weeks. Public Works will install drainage structures around the structure, install the sewer pump and complete the restrooms.

Ron Cahill, Recreation and Special Events Coordinator, is collecting information to present a possible fee schedule to Council within the upcoming months.

Motion by Donna Blevins, second by Brent Foster Council approves the final Pay Request for the Farmer’s Market Structure in the amount of \$21,650. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

- Update on Mill Creek Regional Water Treatment Plant on Designated Final Completion and Outstanding Issues –

Bobby Lane I appreciate the opportunity to update you all on this project which we started three years ago in March with a scheduled completion time of one

year. The Contractor advised us toward the end of October that he was finished and as a result of that we did have a final inspection with the Town and with Washington County Service Authority and we did find that the construction was complete. A few punch list items were resolved and we are in a position to call the project complete.

As a result of that we did receive the final pay request from the Contractor in the amount of what is remaining in his contract, which is owed upon completion, is \$188,950.69. We have signed off on that pay request and approving that pending Council's action concerning with liquidated damages. Council will recall that by contract liquidated damages were any calendar day the contractor went over on the contract time liquidated damages could accrued at the amount of \$580 per calendar day.

Based on our calculations the contractor was over time on substantial completion and final completion a total of 467 days; which means that the accrued liquidated damages based upon our calculations are \$270,860, which exceeds the amount of the pay request by approximately \$83,000. In our opinion Council will need to act on this pay request and will need to act on the set off of liquidated damages. Specifications give the owner, which in this case is the Town of Chilhowie, the right to set off liquidated damages in the pay request.

Of course if Council does set off liquidated damages against the pay request there will be no money paid to the contractor for this final pay request and will be approximately \$83,000 remaining in damages. So let me stop here, there is a couple of other things I would like to talk about, but let me stop here to see if there is questions on the pay request. I do not know if Mr. Clark or Mr. Cassell will have any other comments.

Mayor Heninger

Do you have anything?

Paul Cassell

The contract authorizes you to set off for liquidated damages and I recommend that you authorize Mr. Clark to do so. I do not have anything else to say or to add, Mr. Lane has explained it.

Brent Foster

Do you need the motion on this now or do you have more on this project?

Bobby Lane

Not concerning the pay request, I think the motion would be appropriate, Sir.

Motion by Brent Foster, second by Donna Blevins Council upon the Engineer's recommendation accepts the final Pay Request and authorizes the Town Manager to set off the entire amount for liquidated damages and to seek any additional liquidated damages authorized by the contract. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

Bobby Lane Thank you Council for that action. Another item which is coming up that we did want to make Council aware of was the water plant has been producing water for a long time, and it is producing good water. But the specifications for the contract were written with a very stringent owner acceptance test required for the project before the Town finally accepted it. We did that for obvious reasons to make sure the Town got a quality product.

What the owner acceptance test basically says is that for ninety consecutive days the plant will need to operate without any unscheduled down time. Acceptance testing has been going on since March 2018 and the contractor has not, or the project has not made it ninety consecutive days without a shut down. That continues and I will advise Council that there is a deadline associated with that at which time the contract does not allow the acceptance test to continue on. In other words he cannot run an acceptance test forever, he has a deadline to pass it and that deadline is approaching. That will be the next issue after the final pay request that we will be addressing. I did want to make Council aware of that and of course if John wants me to we can come back and talk about this some more, but this is kind of the next step.

Bill Clear Let me ask a question. During this period of time you said there has not been any problems what so ever?

Bobby Lane No Sir. I did not say that.

Bill Clear None with any chemicals? It has been running perfect since this test started?

Bobby Lane I did not say that.

Paul Cassell That is not what he is saying.

Bobby Lane I did not say that at all. I said that the plant has been producing water...

Bill Clear Okay, but it is not running perfect?

Bobby Lane Hold on, if it was we would have passed this ninety day acceptance test and it would be over and we have not.

Bill Clear Okay now, if this ninety days is up and it is not running perfect do we get another ninety days or what happens?

Bobby Lane The specifications provides remedies for that, which basically there is a bond that was posted by the contractor and the supplier that bond is utilized to remedy that situation and make the project better.

Mayor Heninger But that is on down the road?

Bobby Lane That is on down the road, yes. We are not there yet and quite honestly I am hoping that the project will pass the ninety day test, but he has not yet. The project is a long way from perfect.

John Clark That ninety day accumulation within one year ends in February 2020?

Bobby Lane One year from substantial completion which would be March 2020. It is coming up.

Donna Blevins This has a lot to do with membrane system right?

Bobby Lane The unscheduled down time that we have had is a combination of things. Some of it and probably minor part of it has to do with the membrane and it has to do with valves, air lines just things that normally break down. I do not think we can characterize it as saying it is primarily membrane.

Mayor Heninger When this goes down like before how long has it been down?

Bobby Lane Well, sometimes a few minutes, sometimes and hour. It depends on what causes the shut down. We will have a, I guess the last one a valve stuck in a closed position. When it is stuck in a closed position the computer said we got a valve closed and we need to shut down so it shut down. It was a

matter of minutes for the operator to get it back up and running but that is an unscheduled shut down.

Mayor Heninger

That still counts.

Bobby lane

Yes, that is an unscheduled shut down. Like I said it is very stringent.

Bill Clear

With the operators you got over there in times when something happens are they trained and have the ability to fix it or do we have to call in another engineer or something like that?

Bobby Lane

The operators are employed by the Washington County Service Authority. They are very well trained and 99% of the time they can fix the problem.

John Clark

Do you want to talk about the fluoride situation now or do you want to wait until another meeting?

Bobby Lane

Whatever you want.

John Clark

Why don't we go ahead and address that and get that in the minutes.

Bobby Lane

Okay, the plant prior to this upgrade fed fluoride to the water; of course Council is aware of what fluoride is. To talk about it most people think it is an improvement in dental health. As a concern over material handling Washington County Service Authority wanted to make additional improvements in the fluoride room prior to commencing fluoride feed again. Of course I skipped a step, we stopped feeding fluoride so we could get in the room and get in the plant and make the improvements and get everything done and come back online. With concerns for safety with the chemicals folks of Washington County felt like we should make additional improvements over and above the existing contract in fluoride handling capability. That is being scheduled right now and for that reason fluoride feed has not started yet. With that schedule I think we probably need to get with Washington County to figure that out, but it is probably not far into the future that the fluoride feed will start again. Did that cover what you wanted to cover John?

John Clark

Yes, we went down and never could find any regulation stating that it had to be fed. It does not have to be fed.

Bobby Lane Yes, it does not have to be fed. That is correct.

John Clark I even called the Health Department asking who I was supposed to notify and they did not have anything on it, but what we did do we put something on the water card such as the fluoride is out from this date to this date, but it has never been turned back on. Maybe we need to do that again, the notification on the cards. People might want to know that particular for children that can be told to the dentist that we do not have the added fluoride added to the water. We have natural fluoride which as I understand it is fairly close to the threshold. Maybe if Council thinks we should do that again, we will do it, if not we will just go as we have been going. There is no requirement that I can find and I was even thinking about notifying all the dentist in Smyth County, but you might have someone to go to Washington County, might have somebody go to Wythe County. I am sort of chasing my tail there about two years ago on what to do. I think you and I talked about that a little bit.

Bobby Lane Yes.

Bill Clear So Fluoride is mandated by the Government?

Bobby Lane No Sir.

Bill Clear So we do not have to do it?

Bobby Lane No Sir. It is not mandated by anybody. We do it as a service or we did it by a service and I think the Town will continue to do it as a service but it is not a mandated item.

Brent Foster I think the best thing is to let it go until we get it started and then put it on the cards that fluoride is back in the water.

Bobby Lane Because I think we are getting close. Again we are not involved with that, I do not think the Town is really involved in that. I think Washington County is kindly taking the lead on that but I think we are close.

Donna Blevins Well since it is not mandated I think that would be acceptable.
Bobby Lane Mayor, if Council has any other questions I am glad to address them.

Mayor Heninger You all got anything? Okay.

Bobby Lane Thank you all very much.

Mayor Heninger Thank you.

- Confirmation of November 19th for Required Ethics/Conflict of Interest Training – During the previous Council meeting the date was set of November 19th at 6 p.m. for the Ethics/Conflict of Interest Training. Effective July 1, 2019 the training is now required by State Law to be completed every two years.
- Report on Countywide Census Meeting on November 6th – A County wide Census Committee was developed during this meeting named Smyth COUNTS. March 12, 2020 the Census Survey online goes live and the Committee is requesting localities to assist with advertising the date via water bills, websites and social media. December 3, 2019 a job fair for the Census 2020 will be held at the Old High School computer lab to assist anyone that is applying online to become a 2020 Census numerator. A Census numerator will travel door to door to obtain a true population count for those who do not complete the Census Survey online. The next meeting for Smyth COUNTS is scheduled for December 5, 2019 at 9 a.m. at the Smyth County Administration building.
- Report on Veterans Day Ceremony – Ron Cahill, Recreation and Special Events Coordinator, reported the Veterans Day Tribute was a success but attendance was down compared to the previous year with roughly one-hundred people attending.
- Report on Lucas Dowell Bridge Memorial Dedication – The Dedication was well attended. A sign was placed at the north bound and south bound Interstate 81 overpass bridge and under the bridge on White Top Road in honor of Trooper Lucas Dowell.
- Report on Christmas Parade, Bazaar and Employee Christmas Dinner – Ron Cahill, Recreation and Special Events Coordinator, reported the Christmas parade will be held on Saturday, December 7, 2019 at 6 p.m., the Christmas Bazaar will be held the same day as the parade with hours of 4 p.m. until 8 p.m. at the Old High School. The Employee Christmas Dinner is scheduled for Sunday, December 8, 2019 at 5 p.m. at the Old High School.

New Business:

- Report on Class Action Hearing on Opioid Negotiations – Paul Cassell, Town Attorney, reported a number of localities have filed lawsuits against distributors and manufacturers of opioids because of the damage that has been done in certain areas of

the country including this area. The Town of Chilhowie has not filed lawsuits but received notifications that a class has been certified, which means they are attempting to negotiate a settlement on behalf of all affected entities, not just those who file lawsuits. If a settlement is negotiated the Town will be able to receive a portion of the settlement based on population or however they designate.

- Appointment to General Board of Appeals – The Statewide Fire Prevention Code and Statewide Building Code requires a General Board of Appeals. If a citizen disagrees with a Fire Inspection or Building Inspection Code violation the citizen can bring the matter before the General Board of Appeals. Currently there are two vacant seats for the General Board of Appeals. Mr. David Blevins requested to be reappointed and Mr. Doug Bachuss has agreed on the General Board of Appeals. These are three year terms.

Motion by Brent Foster, second by Alan Counts Council reappoints Mr. David Blevins and appoints Mr. Doug Bachuss to three year terms on the General Board of Appeals. The motion was approved with following recorded vote:

Donna Blevins	Abstain	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

- Appointment to Planning Commission – The term of Jim Paine will expire December 31, 2019. Mr. Paine has agreed to be reappointed for a four year term to the Planning Commission.

Motion by Donna Blevins, second by Alan Counts Council reappoints Mr. Jim Paine to the Planning Commission for a four year term. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Abstain
Lewis Shortt	Aye	Brent Foster	Aye

- Presentation of Employee Christmas Bonuses and Food Gift Cards – The 2019-2020 budget includes a Christmas Bonus for each full and part time employee of \$350. The Budget also includes a \$50 Gift Card to Food City for each full and part time employee.

Motion by Brent Foster, second by Alan Counts Council approves the Employee Christmas Bonuses and Food City Gift Cards. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

- Notice of United Way Celebrity Bagging Event 1:00 p.m. until 2:00 p.m., November 26, 2019 at Food City – Marlene Henderson, Clerk–Treasurer, reported the Celebrity Bagging Event is scheduled for November 26, 2019 from 1:00 p.m. until 2:00 p.m. Those who would like to participate may make a donation and the Town will match the donation up to \$50 each.

Committee Reports:

- Recommendation of Finance Committee on Funding Share of Chamber of Commerce Business Bootcamp Program – Alan Counts, Finance Committee Chairman, reported Sarah Gillespie, Executive Director from the Chamber of Commerce of Smyth County, appeared before the Committee and gave a better understanding of the Business Bootcamp Program. The Finance Committee recommends to Council to donate \$5,000 to the Business Bootcamp Program from funds saved by switching the phone service to Voice Over Internet Provider (VOIP).

Motion by Brent Foster, second by Bill Clear Council approves the recommendation from the Finance Committee to donate \$5,000 to the Business Bootcamp Program. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

Department Reports:

John Clark, Jr., Town Manager, reported that Youth Government Day was held October 22, 2019 with four Chilhowie High School Seniors participating. The students were toured through each Department including the Mill Creek Water Treatment Plant.

Mrs. Marlene Henderson, Clerk/Treasurer, reported that the 2019-2020 Budget water rents collected is currently at 33% and sewer rents collected are currently at 32% with one fourth of the year at October 31st. Tax collection is currently at 29% and will greatly increase within the next few weeks. Taxes are due December 5.

Mr. Stephen Price, Police Chief, reported on the Highway Safety Initiative Quarterly Report.

Mr. Ron Cahill, Recreation and Special Events Coordinator, reported the Town will place a decorated Christmas tree in the center of the Farmers Market Structure this Holiday Season.

Motion by Lewis Shortt, second by Alan Counts Council continues this meeting until Tuesday, November 19, 2019 at 6:00 p.m. The motion was approved with following recorded vote:

Donna Blevins	Aye	Bill Clear	Aye
Alan Counts	Aye	Emily Dungan	Aye
Lewis Shortt	Aye	Brent Foster	Aye

Gary L. Heninger

Mayor

Marlene L. Henderson, MMC

Clerk