



**Mayor:** Gary L. Heninger  
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## ***TOWN OF CHILHOWIE***

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**Town Manager:** John E. B. Clark, Jr.  
**Clerk/Treasurer:** Marlene L. Henderson  
**Police Chief:** Andrew K. Moss  
**Director-Public Works:** Jay Keen  
**Fire Chief:** C. David Haynes  
**Building Official:** Randy Sturgill  
**Director-Recreation/Special Events:** Ron Cahill  
**Legal:** Cassel & Crewe. P.C.

### **Town Manager's Report to Mayor and Town Council January 14, 2021**

#### Phase II of Facades Project Downtown Revitalization Project

You have in your agenda package a spread sheet and email regarding the Phase II facades Project. The Phase II project will involve six buildings on the south side of Main Street and two on the north side. The six buildings on the south side are owned by one owner(s) and the two on the north side are owned by two different individuals.

After several weeks of negotiations, particularly with the owners on the south side, the owners and Town have come in agreement with the scope of the project within the allotted budgeted. The scope of the work will be approximately \$140,402 with the Department of Housing and Community (DHCD) picking up \$80,472.59 and the balance of \$59,929.41 by the property owners. The match by the property owners can be made in cash during the duration of the contracted work, or by work done on the buildings within the last two years.

Formal contracts will be made on all eight buildings with the owners, Walberg Construction and the Town as signatories. These documents will be prepared by Ms. Angela Wolfe of Mt. Rogers PDC. A preconstruction conference will be held in the near future. For the Phase I Project in 2020 work began with the Notice to Proceed on March 10, 2020 and I look for about a same start date for the Phase II Project.

#### Mill Creek Regional Water Plant (WTP) Situation and Tolling Agreement

You have in your agenda packet a Tolling Agreement between the parties represented by Counsel representing the Town and Washington County Service Authority (WCSA), Frizzell Construction Company, and Evoqua Water Technologies. Town Attorney Paul Cassell will present the proposed agreement. As I understand it the agreement, the parties will agree not to institute any legal action against the other through February 21, 2021 and retroactively from October 28, 2020. Frizzell Construction is represented by Gentry Locke of Roanoke and Evoqua by Troutman Pepper of

Pittsburgh, Pennsylvania.

To give you an update of this long running situation, The Town and WCSA are not satisfied with the performance of the Evoqua membranes at the 3.1 million gallon per day plant. Additionally we contend that the contractor was 467 days overdue in substantially completing the project, and the contract signed by the parties called for \$580 per day for any over overage. Additionally, the contract, again signed by both parties, call for the WTP to run at least 90 before any maintenance is done on the membranes. At no time has that 90 day threshold been met.

As it stands now the final pay request of \$188,950.69 is being withheld by the Town and WCSA. Liquidated damages at 467 days at \$580 per day equal \$270,860.

As you may recall from a couple of months ago the Town and WCSA contracted with Water Membrane Technologies to do a study to see if the membrane skids could be transitioned from the Evoqua to the Pall system. The Pall system is what the Town and the WCSA had wanted in the first place. Somehow for reasons we are still uncertain about the Lane Group, our engineers on the project, made Evoqua an equal and allowed the Frizzell to use that membrane system instead of the Pall.

The hopes were that the system could be retrofitted for around \$250,000 or a little greater. That money could be used by the proceeds left over from the \$3.4 million grant and loan from the Rural Development that was designated for the project. However, the study revealed that it would cost much more than that so that option is no longer viable.

#### Joint Meeting including Board of Zoning Appeals (BZA) and Planning Commission (Commission), and Planning Commission Meeting

The Planning Commission and BZA held a joint meeting on January 5 to discuss the BZA's granting of variances for the proposed Dollar General Store between West Lee Highway and West Main Street. The two variances granted were for a seven foot setback on West Lee Highway from the required ten foot, and a one parking spot exception from 26 to 25. The BZA Public Hearing was held on November 19.

Since the BZA meeting did not go through the Commission, because it was for a variance, we wanted to inform the Commission of the proceedings. We did this as part of the Commission's regular quarterly meeting that is held on the first Tuesday of each quarter, unless business requires a special meeting. After the Commission was informed of the details of the variances being granted by the BZA, which was for information only, the joint meeting was adjourned, and the Commission took up business at its quarterly meeting. You have a copy of the joint meeting and commission agenda sheet in your agenda.

#### Board of General Appeals (Board) Meeting and Appointments

The Board of General Appeals also met on January 5 after the Board of Zoning Appeals and Planning Commission meetings. You have a copy of the agenda sheet and other information in your packet.

The Board was established about four years ago but has never met until January 5. It is required to be established as a means of appeals from decisions made by the building officials, in our Case Building

Official Randy Sturgill. The Town uses the Virginia Uniform State Building Code (USBC) as our standard. You have a copy of the duties of the Board in your agenda packet.

Although we have never had an appeal, I wanted the Board to meet and be introduced to their duties. I also asked Building Official Randy Sturgill to put together a listing of all the permits issued by the building department since fiscal year 2017-18 to the present. As you can see they are broken down by categories, namely residential, commercial, electrical, plumbing, mechanical, fire protection. They totaled to 168 permits during these years.

Randy and I talked, and the Board will meet at least once a year to go over permits issued in a particular year. Additionally, you have on your agenda packet where two members of the Board's terms expired. Those seats will need to be reappointed by Council.

#### Meeting with the Virginia Department of Transportation (VDOT) and Dollar General Personnel

On Wednesday Public Works Director Jay Keen, Building Official Randy Sturgill and I met with VDOT and Family Dollar Personnel at the proposed site between West Lee Highway and West Main Street. Also at the meeting were VDOT personnel including Josh Lewis, in a new position dealing with drainage, and Chilhowie Maintenance Supervisor Jeff Jones.

We inspected some drainage structures on the southside of Lee Highway connecting to adjoining property to the west. It is my understanding that Dollar General will be putting pipping in place of an open ditch of about 200 feet. VDOT is also going to clean out some pipping going under Main Street to the wet land area. Both these measures should help with drainage from the proposed site, which is where the storm water will be directed.

We also look at some drainage structures on West Main and between the Farm Bureau and railroad. One drainage structure on West Main has been eroded out and needs fill material around it or asphalt. VDOT is going to look into that. Also between the railroad track and Farm bureau, a length of several hundred feet, the tops of several drainage structures were taken off, probably by vandals who sold them as scrap. VDOT is going to replace them and lock them down.

As indicated earlier water and sewer lines will have to be relocated at Family Dollar's expense and to the Town's specification including tapping. A new sidewalk will also be installed by Family Dollar along the northern edge of West Main Street. The site will have to be raised several feet in order for the first floor to be at an elevation of 1945 feet. Even though the Town Ordinance requires the first floor to be at the one hundred year elevation, JMB Investment Company of Knoxville, Tennessee, and the consultants on site say they will raise the building one foot higher due to Family Dollar Requirements.

Respectfully Submitted and Happy New Year,

John E. B. Clark, Jr.  
Town Manager