



GATE CITY TOWN COUNCIL MEETING MINUTES
JANUARY 11, 2011
156 E. JACKSON ST.
6:00 PM

I. COUNCIL MEETING CALL TO ORDER 6:00 P.M. Mayor Jenkins

II. ROLL CALL – Deputy Town Clerk, Judy Guinn

Present Mayor, Mark Jenkins
Council Member Roger Cassell
Council Member, Tommy Herron
Council Member, Randy Lane
Council Member, Frances Perry
Council Member, Wallace W. Ross Jr.

Others Present: Town Manager, Steve Templeton; Town Officer CJ Whitt; Sandra Gibson; Debbie Kindle; Jon McConnell; Roger A. Brooks; Joseph McMurray; Jimmy L. Guinn, Joe McConnell

III. INVOCATION Darrell Fletcher

IV. PLEDGE OF ALLEGIANCE Mayor Mark Jenkins

V. PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AWARDS, APPOINTMENTS, RESIGNATIONS AND CONFIRMATIONS, ADMINISTRATION OF OATHS AND INTRODUCTION OF GUESTS.

- **Welcome Randy Lane as Council Member.**

VI. APPROVAL OF MINUTES

Motion for approval of Town Council meeting minutes from December 14, 2010 with correction from mold to mulberry.

Motion by: Council Member, T. Herron 2nd by: Council Member, F. Perry

VOTE: Yeas, 5
Nays, 0
Absent 0

VII. APPROVAL OF PAYMENTS

Motion for approval for payment of bills for December, 2010

Motion by: Council Member, T. Herron 2nd by: Council Member, R. Cassell

VOTE: Yeas, 5
Nays, 0
Absent 0

VIII. PUBLIC COMMENT

3 minutes per speaker

Sandra Gibson: Speaks about mobile home her son purchased on Margie Street and been told they could not move it because of zoning. She explains it is not bringing in another mobile home, simply moving from one side of house to other. Explains the residents on Margie Street are long term residents and it is not a high income area. States Town sent everyone letters and no one objected to it being moved. Asks is there isn't a way that it be rezoned to M-1 (she's not sure).

Council Member, F. Perry – States it can't be rezoned because it would be spot zoning and that's against the law, not our law, State law. If you rezone you have to attach to the area that is already zoned to what you want to rezone to. You can't take one plot out of a piece of ground and zone that particularly. Are you following me?

Sandra Gibson – No. Not really.

Council Member, F. Perry – It's C-1. Say you have seven plots in there and this is the one in the middle. You can't take that one in the middle and zone it differently than what is surrounding it. That is what the State calls spot zoning.

Sandra Gibson – States the two places that are vacant is where mobile homes have sat.

Council Member, F. Perry – Has the mobile home been out of there for two years where you're wanting to move it to? Has there been one there in the past two years?

Sandra Gibson – Explains the one that was there is not that we bought to replace this one and we were not going to replace it because the water where the city comes down was replaced twice. Explains it is part of her mother's income.

Council Member, F. Perry – My questions is how long has it been since there was one where you want to move the one you want to move to?

Sandra Gibson – I'm not sure. I'm sure it has been more than two years.

Council Member, F. Perry – Well that's a part of the zoning, if it has been gone longer than two years.

Town Manager, S. Templeton – My understanding from talking to her son was that it had been gone probably ten years.

Council Member, F. Perry – I didn't bring my zoning code book with me.

Town Manager, S. Templeton – Two years is the cut-off point.

Sandra Gibson - You say it's against the law to do that it's against the law too for me not to have a right of way to my property out on the four lane.

Council member, F. Perry – Well, we're working on that for you. That's not up to us either. We have asked the General Assembly to do that for us.

Sandra Gibson - But when the Town came to me and McConnell's back here, we agreed to let you incorporate that into the city but that stops us from doing anything else out there.

Council Member, F. Perry - Well, I hope you understand that it's not something that we don't want to do for you, it's something that our hands are tied on because of the law.

Council Member, T. Herron – I did some research on that. What it looks like to me, the State knew when they closed that, who bought the property owned it. They paid money for it, with the saying that you would never be able to use that right-of-way in here. Then they turned around and give it back to the property owners because they didn't need it. That's the way I understand it, I might be wrong. The way I read it is the state bought it, reimbursed the people who owned the property, then turned around and gave the property back to them.

Sandra Gibson – Can you show me where it says in any of the deeds that have transferred from that that you would never get a right-a-way in there?

Council Member, T. Herron – I don't know where, our lawyer checked on it for us. That's what she told us. That is what she told us, our hands are pretty much tied.

Mayor Jenkins - I have made a request to the state for all interaction that took place, but I haven't gotten it back yet. I made a written request that they give us what took place with that property, transfer and taking of it, everything. We haven't been able to find anything. Or there are possibilities of variances for back to the property.

Council Member, F. Perry - We would have to look at the code book and see the stipulations about variances.

Sandra Gibson – Like I said, it's not putting another mobile home down there. It's like Ms. Click, Joe Click had Rex McCarty come and appraise their property. It appraised for \$78,000 you're not going to buy a house that you have a lot there that the highway is up here behind you, here's your house the railroad is in front of you

Mayor Jenkins – you have twenty seconds

Sandra Gibson – then the creek then the four lane behind you so she realized pretty quick she's not going to be able to sell her house. She still doesn't object to the trailer being moved.

Mayor Jenkins – We'll look at other possibilities.

Council Member, F. Perry - It's really not the matter of any of us objecting to the state road. I hope you understand that. It's that we have to follow the ordinances that have been set in place. We don't have the authority to go against State law and to rezone that would be what they call spot zoning.

Sandra Gibson – Well had she not had the one there that was destroyed by the water and that she would have the income to put another one in there because it has been less than two years. We're just looking at a better place

Council Member, F. Perry - I understand what you are saying

Mayor Jenkins – Sandra we will limit public comment to three minutes. If you want to be put on the agenda the next time that can be done.

Council Member, F. Perry – We need somebody to look into a possibility of a variance.

Jon McConnell: You say you can't rezone nothing, right? How did you zone the mountain, how was the mountain zoned?

Council Member, F. Perry – No, I didn't say that. It's R-1 until it's asked to be otherwise.

Jon McConnell -So it's still farm land, right?

Town Manager, S. Templeton - Farm land, residential

Jon McConnell - How many years until you open the mountain up? Till you have to open the mountain up? It's ten years from the time you incorporated it. When did you incorporate?

Town Manager, S. Templeton - Doesn't have to be open, does it?

Jon McConnell - Yes it does.

Mayor Jenkins – Don't know.

Jon McConnell – You got to give us access within ten years. So, I need to go back to the Board of Supervisors and tell them you're saying you're not going to do nothing that you said you was going to do. Right? You took us under false pretense. Don't just sit there and stare at me.

Mayor Jenkins - That's all I'm going to do.

Joe McConnell: I'd like a traffic count on this highway from Weber City at the red light up to the red light up here and with the traffic count from the red light here around the by-pass.

Jon McConnell – Speaks from the back. You asked for that three months ago and you haven't got it.

Joe McConnell – But when me and Sandra met with the State Department, they will tell you anything they want to tell you at the time they're talking to you. They told us the reason why they couldn't have a right-of-way to that property over there that was a high volume traffic highway. To give us access they would have to completely rebuild it. That State law, and this is the very word he said, State law says that you are on highway right-of-way you have to have an egress lane and a turning lane. Same highway goes right on down through here. They don't have any turning lanes. They got a two foot medium strip with seven turning lanes but there's no turning lane there. But you can turn from North to South, South to North seven places. Now that's against the law according to what they told us. We got a liquor store on it, a filling station, an electrical shop and a switching station for Sprint, three public driveways. We got two picnic areas, plus we got a dumpster station and a subdivision. Now, I'd like to have a traffic count from down there to up here. I sit over there for fifteen minutes at Food Lion hill the other day and for fifteen minutes there was 103 cars come in and out of Gate City. There was only 52 went by-pass. So now according to what they said high volume, that road down through there ought to have a fence on each side of it and you shouldn't be able to turn on it period. But we got all this stuff on it. But I want a traffic count. They had two counters down there not too long ago. I'd like a traffic count on that highway from Moccasin Gap down where you go under the railroad up to the red light over here, they had two on it and they had one on it going by. They got a permanent count this one over here, Council, seven days a week.

Mayor Jenkins – Where at?

Joe McConnell - On the by-pass, it got a permanent counter on it that counts traffic on it seven days a week. But, I'm going to get the Governor in, I want all this traffic count and stuff and I'm going to get somebody to tell me how they can tell you stuff like that and not live up to it. They're either going to land lock down through there or they're going to rebuild it and put a lot of damn turning lanes on it, before I quit. I'll go right onto the Supreme Court if I have to.

Mayor Jenkins – I don't blame you.

Joe McConnell – But I want a traffic count on those two lanes of traffic.

Mayor Jenkins closed the public comment session at 6:20 P.M. and opened the consent agenda session.

IX. UNFINISHED BUSINESS -

- **Placement of Council Members to fill vacancies to Facade, Finance, Park, Personnel, Historical and Planning Committees**

Mayor Jenkins announced the following appointments to committees:

Facade Improvement & Revitalization	Randy Lane
Finance Committee	Randy Lane (to serve with Roger Cassell)
Park Committee	Tommy Herron (to serve with Frances Perry)
Personnel Committee	Randy Lane (to serve with Tommy Herron)
Historical Committee	Frances Perry only

Council Member, W. W. Ross Jr. – Question about the Safety what is the position of the Safety Committee, what does it consist of.

Mayor Jenkins – That is mainly making sure, we have a manual that was developed by the Police Department for the Safety Committee to operate off of it. Just, mainly, making sure that we make the employees aware of the safety standards and everything. There are State standards that are implied, that has not been real active. That is something we probably need to

Council Member, W. W. Ross, Jr. – Well, if I'm, so you mean it hasn't been perceived before now?

Mayor Jenkins – Oh, yes.

Council Member, W.W. Ross, Jr. – I mean, you said it hadn't been much activity about the process?

Mayor Jenkins – The development accepted the manual but it hadn't been

Council Member, W. W. Ross, Jr. – It hadn't been implemented?

Mayor Jenkins – It has been implemented, we need somebody on the Committee to take

Council Member, W. W. Ross, Jr. - You just said you had Tommy Herron on the Committee. Correct?

Mayor Jenkins – Yes

Council Member, W. W. Ross, Jr. - Okay, so he had been implemented. So, can I ask what is your, what did were your duties, what did you consist of your duties how did you help, I'm trying to acclimate myself to this position. So how do you

Vice Mayor, T. Herron – The manual is in place you just enforce it. Anything comes up, that's what you refer to.

Mayor Jenkins - We just need to pay a little attention. It's not a lot of extra work load.

Vice Mayor, T. Herron – If something comes up you address it.

Council Member, W. W. Ross, Jr. – So where is the manual?

Mayor Jenkins – I hope it's up here.

Council Member, W. W. Ross, Jr. - Deal with the Fun Festival, I mean the Festival of any kind or just

Mayor Jenkins – No, it's mainly employee safety. They had certification about a month ago for the employees. Most of it is outside training, what's the guy's name who comes down, he works for the Water Detection, he's the one that does most of the safety training.

Council Member, W. W. Ross, Jr. - So, I do have to take this Committee if I don't want to?

Mayor Jenkins - You don't have to. If you would like to look at the responsibilities and see what you want to turn it into and if not, you can tell me and I'll ask someone else to serve on it next month.

Council Member, W. W. Ross, Jr. - Well, all right.

Mayor Jenkins – Thank you.

- **Phase 3 Moccasin Hills Project Funding from VDWSRF**

Mayor Jenkins – This was the one that we did not pursue at the previous meeting. One or two Council people had talked to Andy about the potential of presenting this again. Andy has worked with the Virginia Department of Water and I hope everyone has it in their packet.

Town Manager, S. Templeton – Yeah, there were on your desk, separately from your packet.

Mayor Jenkins – My main response is that Andy had spoke with Mr. Pellei and indicated that the Town wished to reconsider the initial offer for the Moccasin Hills Project and we will need a letter, along with official Town Council action that must be sent no later than January 13th. Mr. Pellei pointed out that accepting the initial offer does not guarantee the Town would receive the funds, as the Town will have to go through the VRA credit check, loan analysis, etc. This would just put the next step and put the possible funding. We can accept it and still when it comes down to the final funding, we do not have to take it, unless we can find out some way that we are going to finance this. So I guess if you all would like to direct me to go ahead and send a letter.

Council Member, W. W. Ross, Jr. – Are we talking about the Phase 2.

Mayor Jenkins – This is the Phase 3 of Moccasin Hills that we did not

Council Member, W. W. Ross, Jr. – How much money are we talking about here? Do we have to pay the 3% for 30 years grant on that?

Mayor Jenkins – Yes, it's the

Council Member, W. W. Ross, Jr. – This is this, this is, we may have to raise the water rates at some possibility?

Mayor Jenkins - That would be one avenue you could take.

Council Member, W. W. Ross, Jr. - I know that I'm repeating myself, from a Councilman told me once before. He mentioned to me, did I want good water in the city of Gate City? And yes, I want good water in the city of Gate City. But at the cost of it in the last ten years or more my rate has gone up and the services of what and what I'm trying to is that I lived in a community that qualify for a grant back in the 70's and when the grant nobody else applied, but when the grant was received services went into other communities, we didn't get the grant that we were promised. So since then, we've been paying we've been having water problems we've been paying for other people's grants who are getting other services and other amenities and this is another process from this degree of Moccasin Hills that you all took in and we and again I'm going to end up paying my into it until people are going to be paying a higher price for services that I'm not getting. It's for someone else, it always has been. I think that's some disappointed, I think it's been one sided again each time we try to live right well we have to do this because of the fact that this is the best possible way, I don't think so, but this is always a way that we address issues that I don't think is fair.

Mayor Jenkins – Thank you Wallace. Does anyone want to make a motion to accept this or not?

Motion to accept offer for funds for Water System Improvements Phase 3 (Moccasin Hills)

Motion by: Council Member, R. Cassell 2nd by: Council Member, F. Perry

VOTE: Yeas, 4
 Nays, 1 (Wallace W. Ross, Jr.)
 Absent 0

X. NEW BUSINESS -

• Nomination of Council Member to fill vacant Vice-Mayor position

Council Member, W.W. Ross, Jr. - Question, Robert Rules usually, you open up the position of nominations once and you ask if you have any other nominations to for that vacancies, anybody else, do we still Robert Rules we can't nominate other people or anybody from the board for that position and I feel a little uncertain, uncomfortable we don't have an attorney here I don't know what the criteria of for this position. We need to have some kind of rules set in place so that when this comes up that we can go back and go by some guidelines or some directions of how we can

present this position. How to determine who when we have to replace somebody. Right now we're just throwing it up in the air and as it fall we just decide how we want to do it seem to be the criteria. So I'm just disillusioned of the fact we need an attorney here to give us some guidance. I'm a little leery about all this new business cause we don't have and I don't really know where we stand or how we are proceeding with the proper rules and regulations of Robert Rules and we stand within the guidelines of the board with this board.

Motion to nominate Council Member Tommy Herron to fill Vice-Mayor position.

Motion by: Council Member, F. Perry 2nd by: Council Member, R. Lane

VOTE: Yeas, 3
 Nays, 0
 Absent 0
 Abstain 2 (Tommy Herron, Wallace W. Ross, Jr.)

Mayor Jenkins – Continues with motion asks for those in favor to signify by saying aye, those opposed?

Council Member, W. W. Ross, Jr. – Could you repeat the, could the secretary read that back please?

Deputy Clerk, J. Guinn – Motion to nominate Tommy Herron for Vice Mayor, Motion made by Frances seconded by Randy Lane

Council Member, W. W. Ross, Jr. - So we don't have any options for no other names for nomination, it's just closed with one name?

Mayor Jenkins – Well you can nominate somebody else if you want to, I guess.

Council Member, W. W. Ross, Jr. - That's what I was wanting to know when we have the opportunity to do that.

Mayor Jenkins – Well this has been voted on if I have done it wrong we'll reverse it.

Council Member, W. W. Ross, Jr. - Whatever

- **Due to an amendment to the By-Laws of the Gate City Planning Commission, Mr. Delaney Herron's term of office ended in January of 2011. Appoint Mr. Herron to a full four (4) year term, effective January 1, 2011 and ending January 1, 2015.**

Motion to appoint Delaney Herron to full four (4) year term effective January 1, 2011.

Council Member, W. W. Ross, Jr. – Question.

Motion by: Council Member, F. Perry 2nd by: Council Member, T. Herron

Mayor Jenkins – Now, is there any discussion?

Council Member, W. W. Ross, Jr. - Yes, on this Planning Committee, was Mr. Herron Vice Chairman or was he Vice Chairman of that Committee?

Mayor Jenkins - I don't, I know he was a Committee Member, I'm not sure they make that

Council Member, W. W. Ross, Jr. – I got this that they had a quorum, but I want to know who was the Vice Chairman who who I just

Mayor Jenkins - I know Jo Ann Castle is the Chairman

Council Member, W. W. Ross, Jr. - She wasn't there

Mayor Jenkins - I don't know who the Vice Chair was

Council Member, W. W. Ross, Jr. - How did they get properly get a voting process if I don't know who the Vice Chairperson is?

Mayor Jenkins – What does it matter?

Council Member, W. W. Ross, Jr. – Well, if it matters if a Chairperson don't vote they there for ties, so did the Chairperson vote or did they not vote that's what I want to say. Legally, I'm trying to understand the Robert Rules of Order.

Town Manager, S. Templeton – We addressed that with previous Town Attorney who gave us the opinion that since those committee members, Planning Commission etc are not elected officials but rather appointed by this body that they can in fact that the Chairman can in fact vote, only on this board can the Chairman not vote accept in the event of a tie. That was the opinion as given to us by the previous Town Attorney.

Mayor Jenkins – Anymore discussion?

VOTE: Yeas, 4
Nays 1 (Wallace W. Ross, Jr.)
Absent 0

- **Resolution in support of Legislative action making it unlawful to sell and/or possess K-2 synthetic marijuana.**

Motion for resolution in support of Legislative action making it unlawful to sell and/or possess K-2 synthetic marijuana.

Motion by: Council Member, T. Herron 2nd by: Council Member, R. Lane

VOTE: Yeas, 4
Nays, 0
Absent 0
Abstain 1 (Wallace W. Ross, Jr.)

- **Resolution to recommend that the tinted window statute become a secondary offense instead of a primary offense.**

Mayor Jenkins – This resolution mimics the one by the county.

Town Manager, S. Templeton – This is, in fact, I obtained this from the county it's the one that they sent in to the General Assembly. Of course, we just changed the wording to reflect the Town of Gate City. If you have read it, you'll notice that most of these window tinting citations have been written by the State Police. Of those, most of those are out of state people and it is the desire of both the Economical Development and the Tourism in Scott County to try to minimize this. Making this a secondary offense means that there needs to be another traffic violation before you can pull the person over just for this tinted windows.

Council Member, W. W. Ross, Jr. – Question. You said most of the cases are done by the County and State Police, 32 cases was heard on August 10, twenty ten of 28. How many was County and how many was State?

Town Manager, S. Templeton - I don't know if any were County. None were Town of Gate City.

Council Member, W. W. Ross, Jr. - All of these are Gate City cases?

Town Manager, S. Templeton - No, none of them were the Town of Gate City cases, but this was in General District Court on that particular day. The County Administrator was the one who

went to the Court and obtained the information. But, none were the Town of Gate City, I checked that.

Council Member, W. W. Ross, Jr. - Well, you can, is that high priority on our Town to be concerned about tinted windows?

Town Manager, S. Templeton - Originally this was put in as an Officer's safety issue and Virginia has a rather restrictive percentage of tint so it allows an Officer to look in to see what he is seeing before they roll the window down or open the door. If it's a secondary offense, you've already established probable cause to stop that vehicle and you're going to look what you can see anyways as soon as that window goes down. We don't feel it's going to affect Officer's safety. I think there is probably some Troopers that have a habit just to look for darkened glass and then pull that vehicle over. Other states don't have as restrictive of a tint percentage as Virginia, so it was almost like you were targeting out of state vehicles and the goal obviously was not to run out of state people away but to attract them to Gate City and Scott County.

Council Member, W.W. Ross, Jr. - Now will this give City Officers to stop vehicles with tinted windows, right? Well that concerned me because of the fact that I mentioned this the last time at the Council Meeting that my car was in the shop and they loaned me a car and half of the car had tinted windows and they followed me and that, you know and when I got out of the car they realized who I was but I had a Tennessee sticker, I mean a tag on it so that's what I'm saying. So they just automatically, I hadn't broken no law, but my windows was tinted and they followed me and I was a big concerned why, I mean, so only other reason I could come up with was because I had tinted windows. So, if there's going to be a thing that they have that much time to focus on tinted windows when they could be doing around the community doing a safety check and going up and down, I mean a lot times they don't check the community like they used to so I feel they would have more time doing that than be down there playing with the tinted windows. They up here running around and doing the safety check in the community they ain't going to have time to look at anybody's

Town Manager, S. Templeton - As I explained, we didn't write any of those tickets. So, therefore, we weren't making these stops just for tinted. But, it was occurring within the County and within the Town limits. This is just a resolution into the Legislator in support of this change.

Motion for resolution to recommend that the tinted window statute become a secondary offense.

Motion by: Council Member, R. Cassell 2nd by: Council Member, T. Herron

VOTE: Yeas, 5
Nays, 0
Absent 0

X. CLOSED SESSION

Mayor Jenkins opened the closed session at 6:40 P.M.

Motion for Council to enter into closed session to discuss personnel issues, potential hiring and the interviews for the Town Attorney.

Motion by: Council Member, T. Herron 2nd by: Council Member, F. Perry

VOTE: Yeas, 5
Nays, 0
Absent 0

XI. RETURN FROM CLOSED SESSION

Council returned from closed session at 7:55 P.M.

Motion for Council to return from closed session.

Motion by: Council Member, F. Perry 2nd by: Council Member, W. W. Ross, Jr.

VOTE: Yeas, 5
Nays, 0
Absent 0

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Gate City Town Council has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-7312 of the Code of Virginia requires a certification by the Town Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Gate City Town Council hereby certifies that to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirement by Virginia law were discussed in closed meeting to which this certification applies and (2) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Gate City Town Council.

VOTE: Yeas, 6
Nays, 0
Absent 0

XII. MOTIONS FROM CLOSED SESSION:

Motion for the Town of Gate City to hire police officer Arthur "Pete" Chambers at the base starting pay.

Motion by: Council Member, T. Herron 2nd by: Council Member, W. W. Ross Jr.

VOTE: Yeas, 5
Nays, 0
Absent 0

XIII. ADJOURN

Motion to adjourn the meeting until Thursday, January 20, 2011, at 6:00 P.M.

Motion by: Council Member, F. Perry 2nd by: Council Member, T. Herron

VOTE: Yeas, 5
Nays, 0
Absent 0

*Mayor Jenkins adjourned the meeting at 7:57P.M.

Mark Jenkins – Mayor

Judy Guinn – Deputy Town Clerk