

**MINUTES
TOWN OF CLINTWOOD
REGULAR TOWN COUNCIL MEETING
AND PUBLIC HEARING
OCTOBER 11, 2022
6:00 P.M.**

Record of Attendance:

Council Members:

Danny Lambert- Mayor/Town Manager
Ron Kendrick - Vice Mayor - Remotely
Doris Rife
Talbert Bolling
Jim Childress
Shelly Mullins

Others Present:

Susan Wood - Attorney
Judy Steele-Clerk
Officer Lester Turner
Officer Chris Yates

Citizens: Historical Society Members - Catherine Cummins, Susan Mullins, Mildred Brooks, Teresa Wright, and Edith Redden

Mayor Lambert said that Vice Mayor Kendrick has requested to attend the meeting remotely and he asked him to identify himself, his location, and the reason he is requesting to attend remotely.

Vice Mayor Kendrick stated his name, and that he was in Roanoke traveling onto Richmond because he has a staff meeting with his employment.

Motion was made by Councilman Bolling and second by Councilwoman Rife to accept Vice Mayor Kendrick attending remotely by phone. Motion passes unanimously.

Mayor Lambert asked for a moment of silent prayer.

Agenda Item -Approval of minutes of September 13, 2022

Motion was made by Councilman Childress and second by Vice Mayor Kendrick to approve the minutes as presented. Motion passed three ayes. Abstained - Councilwoman Rife and Councilman Bolling - They were absent at the September 13, 2022 meeting.

*Minutes - Regular Town Council Meeting
and Public Hearing
October 11, 2022
Page 2*

Mayor Lambert asked if there were any agenda additions and Councilman Bolling added a personnel matter for the closed session, and Mayor Lambert added to the agenda for #10 the Community Flood Preparedness Fund, item # 11 is Community Plateau Sanitary Sewer Evaluation Study, #12 are town flowers for 2023, and #13 is snow removal.

Motion was made by Councilman Bolling and second by Councilwoman Rife to approve the agenda with additions. Motion passed unanimously.

Agenda Item - Lease of town property to the Dickenson County Historical Society Pursuant to Virginia Code Section 15.2-1802

Mayor Lambert welcomed the Historical Society members.

Motion was made by Councilman Childress and second by Councilman Bolling to open the public hearing. Motion passed unanimously.

Public hearing was opened for public comment. Catherine Cummins said they were really excited about getting this large space where they can more appropriately display all the things that have been donated and for the future donations. They are committed to preserving the history of their county. They will be dedicated to preserving everything that is already there and will be sufficiently increasing the volume of things that are already in there. The downstairs area will require some attention in regards to the flooring and painting. It will need to be made ADA accessible to the second level and ADA compliant for a bathroom on the first level. Also, there will be some fixtures that will have to be removed. Edith Redden said that all the improvements that Catherine spoke about will be done by the Historical Society. She expressed appreciation to the town for considering leasing the field house. Councilman Mullins expressed appreciation to the ladies for their hard work and dedication at the historical society. Catherine said this was dear to her family and the building was done by the community. She runs into people every day that speaks about what they had done in regards to working on the original building and field.

Hearing no further comments or questions, Mayor Lambert asked for a motion to close the public hearing.

Motion was made by Councilman Mullins and second by Councilman Bolling to close the public hearing. Motion passed unanimously.

Motion was made by Councilman Bolling and second by Councilwoman Rife to accept the lease as written between the town and the historical society. Motion passed unanimously.

Agenda Item -Advertise for Engineering Service to receive Engineering Statement of Qualifications by November 10, 2022

Mayor Lambert said the town has applied for some grants that will need engineering services so we will need to advertise for engineering services and the way he understands this would be good for three (3) years. The council can select three members to interview the candidates to make a selection. You won't have to go thru the procurement process each time you need engineering services for the next three (3) years.

Motion was made by Councilman Childress and second by Councilman Bolling to advertise for engineering services. Motion passed unanimously.

Agenda Item - Review of proposed ordinance regulating inoperable vehicles and requiring the removal of such vehicles.

Susan Wood said that last month Ron Kendrick had a question about the antique license plates or tags. Based upon what she saw at the DMV you have to have a specific tag. So this ordinance would still apply to an antique vehicle if has been partially or totally disassembled, tires or engines have been removed and not operable. The fact it has an antique license plate does not mean it is not junk. Officer Mullins said that an antique vehicle that has antique tags does not have to have a sticker.

Motion was made by Councilman Bolling and second by Councilwoman Rife to advertise the proposed ordinance regulating inoperable vehicles for a public hearing at the next council meeting. Motion passed unanimously.

Agenda Item - Planning Commission Members Terms Expiring November-2022

Mayor Lambert said two planning commission members, Tammy Robinson and Gary Hull, terms are expiring in November. Judy Steele is to check with Gary Hull to see if he will serve another term and will make the appointments in November.

Agenda Item - Community Flood Preparedness Fund

Mayor Lambert said that Chris Mullins had applied for this for the town. The town's match is \$5,700 and the grant amount is \$51,300. He asked for council's approval to sign the grant agreement and any other necessary documents pertaining to the grant.

Motion was made by Councilman Bolling and second by Councilwoman Rife to authorize the mayor and the clerk to sign the necessary documents needed for the Community Flood Preparedness Fund and too approve the match of \$5,700 (Five Thousand Seven Hundred Dollars) for the grant. Motion passed unanimously.

Agenda - Grant - Sanitary Sewer Evaluation Study

Mayor Lambert said the town has received a grant to do a Sanitary Sewer Evaluation Study in the amount of \$35,000.

Motion was made by Councilman Bolling and second by Councilwoman Rife to ratify the Memorandum of Understanding (MOU) that Mayor Lambert has signed concerning the grant from the Cumberland Plateau Planning District. Motion passed unanimously.

Agenda - Flowers for town streets next year.

Judy Steele said that the lady from Tazewell, Kimberly's Greenhouse, had called to see if the town was interested in having her do the flowers for the town streets next year. She was getting ready to place her order and she just wanted to check to see before placing her order. Councilman Mullins said he wished there was a way that our local greenhouse could work it out.

Motion was made by Councilman Bolling and second by Councilwoman Rife to go with the lady from Tazewell, Kimberly's Greenhouse, to provide the flowers for the town streets. Motion passed unanimously.

Agenda - Snow Removal

Mayor Lambert said that the council needs to decide about the snow removal from the streets for this winter. He said that Ben McFall did the snow removal last year at \$100 (one hundred dollars) per hour. The total cost was \$10,615.50 (ten thousand six hundred and fifteen dollars and fifty cents) last winter for labor and salt. Salt has already been purchased for this year for \$3,951.36 (three thousand nine hundred fifty-one dollars and 36 cents). Councilman Bolling thought it needs to be advertised and

*Minutes - Regular Town Council Meeting
and Public Hearing
October 11, 2022
Page 5*

Mayor Lambert asked if he wants it in paper or just asked the two people. Councilman Mullins said if you want the streets plowed Ben McFall has a good program. He is not saying you can't find someone else, but when you call Ben he will be here. When it comes to snow, he is working 24 (twenty-four) hours a day. Mechanics are in the shop and trucks are running.

Mayor Lambert said he would check with the two local contractors to see what their hourly rate would be this year.

Reports and Communications:

Town Attorney - none

Town Council -

Doris Rife - none

Talbert Bolling - He expressed his appreciation to the town employees for everything they have done. The Hootin in the Hollow Festival ent really well. He appreciated the guys being out too pickup the trash. He asked about closing the street for the Glow Party that Dominion Fitness is doing. Councilman Childress said the application has been sent in to close the street from the town hall to the courthouse on the night of October 29 from 7:00 p.m. to 10:00 p.m. It is for teenagers and looks like they have a good DJ and have a good plan. Councilwoman Rife said Ms. Newsome had contacted Judy about getting the insurance policy showing the town as additional insurer.

Jim Childress - none

Shelly Mullins - none

Ron Kendrick - none

Danny Lambert - He said they are short handed and not been able to get the inmate labor for a while. The men have been keeping up with the mowing and the cemetery mowing. They have also been trimming the trees. There has been a complaint about the dust from the new Food City project and he spoke to Ben and he assured him that would be taken care of. They have finished hauling dirt and will be putting gravel down next. Councilman Bolling asked if he had heard anything on the street light at McDonald's and Mayor Lambert said the paperwork had been sent in along with the check.

Mayor Lambert asked for a motion to go into closed session for personnel, real estate and legal matters.

Motion was made by Councilman Bolling and second by Vice Mayor Kendrick to go into closed session **pursuant to Virginia Code Section 2.2-3711A (1, 3, 8)**; to discuss the following:

- (1) Session 2.2-3711A (1)
 - * Personnel
- (2) Session 2.2-3711A (3)
 - * Real Estate
- (3) Session 2.2-3711A (8)
 - *Consultation with legal

Motion passed unanimously.

Mayor Lambert called the meeting back into regular session.

IN RE: CERTIFICATION FOR CLOSED SESSION: as required by Virginia Code Section 2.2-3712 (D)

Motion was made by Councilman Bolling and second by Councilwoman Rife to certify that the town council to the best of their knowledge (i) only such public business matters as lawfully exempted from the open meeting requirements of Virginia Law were discussed in a closed meeting and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered in the meeting of the Town Council.

Mayor Lambert asked for a roll call vote on the motion.

Doris Rife	-Aye
Talbert Bolling	-Aye
Ron Kendrick	-Aye
Jim Childress	-Aye
Shelly Mullins	-Aye

Motion Carried 5-0

IN RE: Motion from Closed Session

Motion was made by Councilman Bolling and second by Councilman Childress to increase the salary of Officer Turner and Officer Yates to \$42,000 (forty-two thousand dollars). Motion carried unanimously.

Hearing no further business from the close session, Mayor Lambert asked for a motion to adjourn

Motion was made by Councilman Bolling and second by Councilman Mullins to pay the bills, the overtime, and adjourn. Motion carried unanimously.

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Danny Lambert, Mayor

Attest:



Judy Steele, Clerk

ORDINANCE

AN ORDINANCE OF THE TOWN OF CLINTWOOD, VIRGINIA ORDINANCE REGULATING INOPERABLE VEHICLES WITHIN TOWN OF CLINTWOOD, VIRGINIA TOWN LIMITS AND REQUIRING THE REMOVAL OF SUCH VEHICLES

Ordinance Number: CW:A 15.2-904

WHEREAS, the Clintwood Town Council of the Town of Clintwood, Virginia desires to promote the public safety, health, and welfare of the residents of the Town of Clintwood, and

WHEREAS, it is declared to be in the public interest to regulate and restrict the keeping of inoperable motor vehicles on residential or commercial property within the Town of Clintwood,

WHEREAS, under the authority of § 15.2-904 of the Code of Virginia, the Town of Clintwood may enact ordinances regulating the keeping of inoperable motor vehicles, etc., on residential or commercial property and may provide for their removal and penalty for violations of such ordinances; and

WHEREAS, the Town Council for the Town of Clintwood hereby amends ordinance CW:A 15.2-904 adopted November 10, 2020 regarding the regulation of inoperable vehicles;

BE IT THEREFORE ORDAINED, by the Town Council of the Town of Clintwood that the following amendments and provisions be enacted regulating the keeping of inoperable motor vehicles, etc., on residential or commercial property within the Town of Clintwood, Virginia.

***STATE LAW REFERENCES**

Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty, Code of Virginia, § 15.2-904.

Section 1: Definitions

Section 2: Purpose

Section 3: Restrictions; Exemptions; Removal, Disposal, and Cost

Section 4: Penalty

Section 5: Enabling Authority

Section 6: Effective Date

Section 1: Definitions

The following terms shall, for the purpose of this ordinance, have the meanings set forth below:

Inoperable motor vehicle means any motor vehicle, trailer, or semi-trailer which is not in operating condition; or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, if applicable, or other essential parts required for operation of the vehicle; or does not display valid license plates or does not display an inspection decal that is valid or does display an inspection decal that has been expired for more than sixty (60) days.

Motor vehicle means every vehicle as defined in § 46.2-100 of the Code of Virginia, which is self-propelled or designed for self-propulsion except as otherwise provided in Title 46.2. Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space, shall be considered a part of a motor vehicle. For the purposes of this ordinance any device defined under § 46.2-100 as a bicycle or a moped shall be deemed not to be a motor vehicle.

Person means any person, firm, partnership, association, corporation, company or entity of any kind, and being the owner, tenant, lessee or otherwise in possession or control of any private or public real property.

Private real property means any area which is not owned by the federal, state or local government or any instrumentality, agency or political subdivision thereof.

Shielded or screened means not visible by someone standing at ground level from outside of the property on which a subject vehicle is located. Placing an inoperable vehicle within an area completely enclosed by either a solid, rigid, opaque fence composed of standard fencing materials or a landscaped arrangement of non-deciduous trees, sufficient in height, spacing, density and circumference to ensure precluding visibility of the subject vehicle by someone standing at ground level from outside of the property on which the subject vehicle in compliance with the requirements of this article. The placing, draping or securing of a tarpaulin or other non-rigid cover over or around an inoperable vehicle shall not be sufficient to comply with the requirements of this ordinance.

Semi-trailer means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

Town: The Town of Clintwood, Virginia.

Trailer means every vehicle without motor power designed for carrying property or passengers only on its own structure and for being drawn by a motor vehicle. This definition does not include any mobile home for which there exists a valid zoning permit.

***State law reference—Similar definitions, Code of Virginia, § 46.2-100, §15.2-904 A.**

Section 2: Purpose

- (a) The purpose of this ordinance is to prevent the accumulation of inoperable motor vehicles or parts thereof, in unapproved and inappropriate locations throughout the incorporated territory of the town, inasmuch as they constitute an unsightly, obnoxious, and unsanitary condition within such territory. The presence of such inoperable motor vehicles increases the danger of the spread of certain communicable diseases by providing a breeding place for rats, mice, and other known disease carriers and otherwise constitutes a condition detrimental to the mental and general well-being of the town citizens and is declared a public nuisance.
- (b) It is, therefore, determined and the counsel so finds, that it is imperative for the preservation of health, safety, peace, and the general public welfare that these provisions concerning inoperable motor vehicles be adopted requiring property owners, tenants, lessees or persons otherwise in control or possession of real estate to remove such inoperable vehicles from their premises.

Section 3: Restrictions; Exemptions; Notices; Removal, Disposal, and Cost

- (a) No person, firm, or corporation shall keep in the Town, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property within the Town any motor vehicle, trailer, or semi-trailer which is inoperative.
- (b) This ordinance shall not apply to a licensed business which is regularly engaged in the business as an automobile dealer, salvage dealer, or scrap processor.
- (c) The owner of any property within the Town, shall remove therefrom, or otherwise bring such vehicle into compliance with the provisions of this ordinance, any inoperable motor vehicle, trailer, or semi-trailer in violation of this ordinance within thirty (30) calendar days after receiving written notice of the violation.
- (d) Notice given pursuant to this ordinance shall include the following written information:
 - 1. Reasonably describe the inoperable vehicle, and reference this ordinance;
 - 2. State that failure to comply within the requirements of this ordinance may result in the removal and disposal of the vehicle; and

3. State that such removal and disposal may be at the expense of the owner of such inoperable vehicle or the owner of the property upon which such vehicle is located; and

(e) Notice given pursuant to this section shall be given in the following manner:

1. Notice shall be posted in a conspicuous place on the property upon which the inoperable motor vehicle is located; and

2. Notice shall:

- i. Be given to the property owner in person, in which case an affidavit shall be completed by the person who delivers such notice attesting to the time and place of the giving of such notice and to whom it was given, or

- ii. Such notice may be mailed by United States Postal Service mail, postage prepaid, addressed to the owner as set forth in the records. Notice shall be deemed to have been given when posted on the property.

(f) Whenever an owner of property who has received a notice pursuant to this ordinance of an inoperable motor vehicle fails to either remove such vehicle from the property or otherwise to bring such vehicle into compliance with the provisions of this ordinance within the time specified in the notice, the Town through its own agents or employees may remove any such inoperative motor vehicles, trailers, or semi-trailers whenever the owner of the property, after notice is given and the thirty (30) day time period allowed by the notice has lapsed.

(g) After removal of any such inoperable vehicle pursuant to subsection (e) hereof, the Town through its own agents or employees may dispose of such inoperable motor vehicle, after giving further notice as provided:

1. Additional notice of the removal of any inoperable vehicle shall be given to the property owner in person, in which case an affidavit shall be completed by the person who delivers such notice attesting to the time and place of the giving of such notice and to whom it was given, or

2. Such notice may be mailed by United States Postal Service mail, postage prepaid, addressed to the owner as set forth in the records. Notice shall be deemed to have been given when posted on the property.

3. This notice must be given in no event more than five (5) business days after the removal of the inoperable vehicle, to the owner of the property and, if

different, the owner of record of the inoperable vehicle that has been removed. Further the notice shall:

- i. Describe the year, make, model and serial number of the inoperable vehicle;
 - ii. Set forth the location of the facility where the inoperable vehicle is being held;
 - iii. Inform the owner of the owner's right to reclaim the inoperable vehicle within fourteen (14) days after the date of such notice upon payment of the cost of removal to the Town;
 - iv. State that the failure of the owner to exercise the owner's right to reclaim the inoperable vehicle within the time provided may result in the inoperable vehicle being disposed of; and
 - v. State that the owner of the inoperable vehicle, or the premises on which the inoperable vehicle was located at the time it was removed may be liable for the cost of removal and disposal of the inoperable vehicle.
- (h) Whenever any inoperable vehicle is not reclaimed by the owner of such inoperable vehicle by payment of the cost of removal of the inoperable vehicle within the time specified in such notice, the inoperable vehicle may be disposed of.
- (i) If an inoperable vehicle is not reclaimed as provided above, the Town or the Town's authorized agent, shall sell it or cause it to be sold at public action. From the proceeds of the sale of an inoperable vehicle, the Town or its authorized agent, shall reimburse itself for the expenses of any auction, the cost of towing, preserving and storing the vehicle which resulted from placing the inoperable vehicle in custody. Any remainder of the proceeds of a sale shall be held for the owner of the inoperable vehicle or any person having security interests therein, as their interests may appear, for ninety (90) days, and then be deposited with the Treasurer of the Town.
- (j) The cost of the removal and disposal of an inoperable vehicle may be charged to the owner of such vehicle, or the owner of the property from which such vehicle was removed. Such costs may be collected by the Town as taxes and levies are collected.
- (k) Any such costs assessed against the property from which the vehicle was removed shall constitute a lien against the property and shall continue until actual payment of such costs has been made to the Town.

Section 4: Penalty

Any person violating the provisions of this ordinance shall be subject to a civil penalty, not to exceed \$200.00 for the first violation, or violations resulting from the same set of operative facts. The civil penalty for a second violation shall be \$300.00. A third violation shall be a penalty of \$500.00. Thereafter any person with a fourth of subsequent violation shall be guilty of a class 3 misdemeanor.

Section 5: Enabling Authority

This ordinance is enacted pursuant to the provisions of § 15.2-904 of the Code of Virginia, 1950, as amended. In the event of any conflict between the terms and provisions hereof and § 15.2-904, the provisions of § 15.2-904 shall control.

Section 6: Effective Date

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Clintwood, Virginia, this 8 day of November 2022, that Town Ordinance Number CW:A 15.2-904 shall become effective upon passage.

THE TOWN OF CLINTWOOD, VIRGINIA, BY ITS DULY ELECTED TOWN COUNCIL, THE GOVERNING BODY OF THE TOWN OF CLINTWOOD HEREBY RECORDS ITS VOTE ON THE ABOVE ORDINANCE AS FOLLOWS:

Danny Lambert, Mayor: (In the event of tie):

Ronald Kendrick: Absent

Talbert Bolling: Aye

Doris Rife: Aye

Jim Childress: Aye

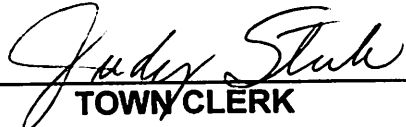
Shelley Mullins: Aye

ENACTED and ADOPTED THIS 8 DAY OF November 2022.

Signed into law this same date: Effective Immediately.

By: 
MAYOR

ATTEST:


TOWN CLERK