

**FLOYD TOWN COUNCIL MEETING  
W. SKIP BISHOP JR., TOWN HALL  
October 7, 2021  
5:30 P.M.  
MINUTES**

**MEETING CALL TO ORDER** – Mayor Griffin called the October 7, 2021, meeting of the Floyd Town Council to order.

**ROLL CALL** – Vice Mayor Patton, Councilman Turner, Councilman Whitaker, Councilman Bond, Mayor Griffin, Town Attorney Murrell, Town Manager Cox, and Town Clerk Holfield were present.

**MOMENT OF SILENT PRAYER-**

Mayor Griffin called for a moment of silent prayer.

**PLEDGE OF ALLEGIANCE-**

Vice Mayor Patton led those present in the Pledge of Allegiance.

**PUBLIC COMMENT-**

Mr. Billy Weitzenfeld stated that he lives at 309 East Oxford Street directly behind Hardee's. He noted that the lighting fixtures at Hardee's have recently been upgraded and it looks like a stadium at night. He questioned why the kind of lighting that was installed is necessary and why it happened all of the sudden. Did Hardee's have to receive approval before the changes were made? He asked Town Council to look into the matter.

Ms. Linda Devito Kuchenbuch stated that she is a citizen of the Little River District of Floyd County. She noted that she serves on the Floyd County Board of Supervisors and that she is not speaking tonight as a member of the Board of Supervisors and any of her comments tonight do not reflect the general feelings of the Board of Supervisors, only her own. She voiced concerns in regard to one of the councilmembers that spoke at the August 24<sup>th</sup> Board of Supervisors meeting. She noted that Councilman Whitaker did not recuse himself as a councilmember or state that he was not representing the Town Council. Ms. Kuchenbuch then shared an extract with councilmembers from the August 24<sup>th</sup> Board of Supervisors meeting minutes. Ms. Kuchenbuch went on to state that we are all here to work together and in the past six years, the Town and County have had one of the best working relationships in years. Ms. Kuchenbuch spoke of the unfounded comments from Councilman Whitaker from the meeting on August 24<sup>th</sup> and noted that she was taken back by Councilman Whitaker almost threatening her, that she would be replaced. She questioned councilmembers and asked if Councilman Whitaker was speaking for the Town Council or was he is speaking for himself? She stated that if he was speaking for himself, next time he should make a disclaimer to the effect that he is not speaking for the Town Council or its members. Ms. Kuchenbuch stated that when members are elected to positions, they don't give up their rights as a citizen, however as elected official they are here to serve the public and they are held to a higher standard on how they should act in public.

## CONSENT CALENDAR-

- A. September 2<sup>nd</sup> and September 16<sup>th</sup> minutes-** Council reviewed the minutes provided in their packets.

Councilman Whitaker makes a motion, seconded by Vice Mayor Patton, to approve the September 2, 2021, and September 16, 2021, minutes.

Councilman Turner-aye  
Councilman Whitaker-aye  
Councilman Bond-aye  
Vice Mayor Patton-aye  
Mayor Griffin-aye

## ITEMS FOR DISCUSSION-

- A. Conditional Use Permit-Boddie-Noelle Enterprises, Inc. (Hardees)**

Town Manager Cox stated that the resolution of recommendation from the planning commission was included in Town Council packets. The resolution approved the additional “pop” signs along the wall of the building but did not approve of the digital menu board sign because they felt it would set a precedence. Town Manager Cox continued by stating that after additional review of the ordinance, after the Planning Commission meeting, it was noted that due to the definition of the menu board sign (a permanent sign, only at drive through) not all businesses could have a “menu board.” It was also noted that the sign would not be visible from the roadway because it is at the rear of the property.

Councilman Bond, who also serves as a member of the Town Planning Commission stated that the definition of a menu board was not discussed. The Commission was concerned about setting a precedence and who and where the menu board content would be managed and changed. The control and changes of the menu board would be operated in North Carolina by a contracted company of Boddie-Noelle Enterprises.

Councilman Turner stated that there are two issues, one is the signage and the other is the additional lighting. While walking along East Oxford Street this week he noticed the change in the lighting fixtures. Were the changes made because the company felt like the signage would not be approved and the lighting would be a way to accomplish the goal? The new LED lights are much brighter than an LED sign would be.

Mr. Reggie Barnacascel, Vice President of Restaurant Development for Boddie-Noelle Enterprises stated that light improvement are being handled by a 3<sup>rd</sup> party company and they are supposed to be obtaining all the necessary licensing and permits. It seems that they did not do that in this case, and he will contact them to have the situation resolved.

Vice Mayor Patton stated that Hardee’s has always been a good neighbor but part of being a good neighbor is being sensitive to the fact that Floyd is a small community with a low crime rate. Mr. Barnacascel stated that the lighting improvements are being completed companywide at all 350 stores for safety and security. Improvement were being made uniformly to reduce the

maintenance inventory that the company has to keep on hand. He went on to state that the digital menu board would not be any brighter than the back lit menu board that is already in place. The only change would be that the menu board has some animation and would display the drivers order on the screen, just for order confirmation. The content would change from breakfast to lunch menu at 10:30am and the menu board would only display during store hours.

Councilman Turner raised the question if a privacy fence could be installed to block some of the light from Mr. Weitzenfeld's property. Mr. Barnacascel stated that the company would be happy to discuss adding a fence or row of trees to help block the light.

On a motion by Vice Mayor Patton, seconded by Councilman Whitaker, and passed, it was resolved to approve the Conditional Use Permit for Boddie-Noell Enterprises, Inc. (Hardee's) for additional signage and the digital menu board sign with the following conditions:

-the menu board sign will remain static except for the once a day menu changes from breakfast to lunch/dinner, and the visual confirmation board when an order is placed by a consumer. And the Council appreciates the willingness to work with the Town on remedying the lighting concerns.

Vice Mayor Patton-aye  
Councilman Turner-aye  
Councilman Whitaker-aye  
Councilman Bond-nay  
Mayor Griffin-aye

**B. Warren G. Lineberry Park Use Permit—Rotary Club of Floyd**

On a motion by Vice Mayor Patton, seconded by Councilman Bond, and passed, it was resolved to approve the Warren G. Lineberry Park use application for the Rotary Club of Floyd, Chili Cook Off event to be held on Friday, October 8, 2021, from 3:00pm to 8:00pm.

Vice Mayor Patton-aye  
Councilman Turner-aye  
Councilman Whitaker-aye  
Councilman Bond-aye  
Mayor Griffin-aye

**C. Parade Permit—VFW Post 7854**

On a motion by Vice Mayor Patton, seconded by Councilman Whitaker, and passed, it was resolved to approve the parade permit application for the VFW Post 7854, Veterans' Day parade to be held on Sunday, November 14, 2021, at 4:00pm.

Vice Mayor Patton-aye  
Councilman Turner-aye  
Councilman Whitaker-aye

Councilman Bond-aye  
Mayor Griffin-aye

**D. Board Appointments**

**a. Tourism Development Council—2 appointments**

Town Manager Cox stated that she received letters of interest for the Tourism Development Council from Kamala Bauers, owner of Hotel Floyd, David Owen, owner of Pine Tavern, Teresa Martin, owner of Studio Thought, Dylan Locke, owner of the Floyd Country Store and County Sales, and Joanne Bell, owner of Bell Gallery. She reminded council members that the Floyd County Board of Supervisors will also need to appoint two citizens to the Tourism Development Council. It was consensus of council members to work with the County to appointment the four members. Town Manager Cox will reach out to Mrs. Cindy Ryan, Assistant County Administrator regarding the appointments.

**b. Zoning Board of Appeals**

Councilman Bond makes a motion, seconded by Vice Mayor Patton and passed, Mr. Boris Vinatzer was recommended for the judicial appointment to the Town of Floyd Zoning Board of Appeals to serve a term ending April 30, 2024.

Councilman Turner-aye  
Councilman Whitaker-aye  
Councilman Bond-aye  
Vice Mayor Patton-aye  
Mayor Griffin-aye

Councilman Turner asked that all boards meet atleast once a year regardless of need. This will allow each board the opportunity to become more familiar with their responsibilities.

Town Manager Cox stated that it has been brought to her attention that all members of the Zoning Board of Appeals must be a Town resident. Therefore, Mr. Richard Lewis will no longer be able to serve on the board. This will leave only two members on the board, Mr. Mike Maslaney and Mr. Boris Vinatzer. There are three open seats.

**TOWN MANAGER'S REPORT-**

Town Manager Cox shared the invitation for the New River Valley Regional Commissions Annual Dinner with council members. This year the commission will be honoring Mrs. Lydeana Martin, Floyd County Community and Economic Development Director, with the Champion of the Valley award. Members of council were strongly encouraged to attend. The annual dinner will be held on Thursday, October 28, 2021, at 6:00pm at the Moon Hollow Brewing Company.

Town Manager Cox stated that she, Mayor Griffin and Vice Mayor Patton meet with representatives from Thompson and Litton. The Town will receive 50% plans and samples (paint colors, floor samples, etc..) by the next council meeting on October 21<sup>st</sup>. They plan to have bid documents ready and work through contract negotiations by the end of the year and begin construction by Spring 2022. Town Manager Cox will email and text council members once she receives the samples.

Town Manager Cox reminded council members that they must renew their Virginia Conflict of Interest and Ethics training by December 31<sup>st</sup>. Town Manager Cox will email members that link to complete the training and stated that each member must provide a certificate of completion to office staff. If members need to use town hall for the training only two members may be present at a time without constituting a meeting.

Town Manager Cox stated that she received a call from Mr. Dave Werner asking if the Hispanic Heritage event scheduled in Warren G. Lineberry Community Park could be changed from Saturday, October 9<sup>th</sup> to Sunday, October 10<sup>th</sup> due to the weather. It was consensus of council members that the change would be fine.

#### **OTHER BUSINESS-**

Councilman Whitaker addressed Ms. Kuchenbuch's comments from earlier in the meeting. He stated that he spoke as a private citizen of the Courthouse district and he was not wearing a badge saying he was a Town Council member. Mayor Griffin stated that the extract shared by Ms. Kuchenbuch says, "that as an elected official I took an oath." Mr. Whitaker stated that he only identified himself as an elected official to make a point about the constitution and the protection of the law enforcement. He noted that he felt the need since Sheriff Craig had come to a meeting and expressed the need to try and keep our law enforcement here, so he asked the Board of Supervisors to fully fund the sheriff's office.

Councilman Turner stated that he liked the way Ms. Kuchenbuch disclosed she was speaking as a citizen not as a supervisor. He went on to state that if town council members don't come out and say they are not speaking for the Town Council then their comments may become associated as comments from our whole board. As a council member we just need to be mindful and recognize that people associate us as Town Council members and if we are speaking as a citizen, we should put that statement or disclaimer out there.

Councilman Whitaker noted that Mayor Griffin hosted a political campaign event that was shared on Facebook, it was advertised with a political candidate, and it listed Will's title as the mayor.

Councilman Whitaker stated that he wants everyone to know that all councilmembers run as independents and therefore council members are not in the business of endorsing candidates. He continued by stating that the event made it look like the council was endorsing the candidate.

Vice Mayor Patton stated that he agrees with Councilman Turner, Ms. Kuchenbuch made it very clear tonight that she was speaking for herself. He went on to state that it has taken him many years seating at the council table to understand the same thing. He noted that as a council member we can't say that

council will do this and do that and after time on council he had final realized why that is the case. He stated that he believes he and Councilman Whitaker are a lot alike in the since that when they speak, they don't mean for others to think they are speaking for Town Council, it just comes out that way. He closed by stating that he would defend Councilman Whitaker's right to say what he wants to say as a citizen, it is his right as an American but as a councilman member it makes that somewhat limited and asked Councilman Whitaker not to let himself fall into that trap.

Councilman Bond thanked Ms. Kuchenbuch for coming and stated that he feels like it has been established now that Councilman Whitaker was speaking as a citizen at the Board of Supervisors meeting. He stated that he read what Sherriff Craig said at one of the last meetings and he sympathizes with his thoughts, whatever can be done to keep the deputies here. They are not just deputies; they are neighbors and friends. He continued by stating that he doesn't agree with the reasoning indicated in Councilman Whitaker's statements at the Board of Supervisors meeting and he felt the threat was unnecessary. Councilman Bond noted that he puts his trust in those that were elected.

Mayor Griffin stated that if the sheriff's office is underfunding then it points back at us a council as well because we help fund the sheriff's office. He stated that he doesn't like the way the message was delivered under the perception that it could have been coming from the whole council. He stated that he has had conversations with 4 of the 5 board of supervisor's members about the presentation and apologized as the mayor.

Mayor Griffin addressed Councilman Whitaker's earlier comments, he noted that he did not host the event, he was an invited guest. He stated that he was as adamant as Ms. Kuchenbuch that he was not there representing the Town or Town Council. Councilman Whitaker stated that is the perception by Mayor Griffin publishing the event. Mayor Griffin stated that he was not responsible for any of the advertisements for the event and that once at the event he went above and beyond to dissociate himself from Town Council.

Councilman Turner stated that sometimes people are going to associate you with Town Council or as a councilmember regardless of what you say. It is just the unfortunate part of being an elected official. People tend to read what they want to into the situation. He continued by stating that he is not trying to single Councilman Whitaker out, he just trying to help everyone understand how these situations can happen. Just like in the mayor's case, he didn't mean it to happen that way either. He closed by stating that this should be a lesson for all of the council members and they all should be mindful of the positions they are in.

Vice Mayor Patton stated that he didn't want Councilman Whitaker to feel like he was singling him out. He reminder Councilman Whitaker of conversation they had where Vice Mayor Patton told Councilman Whitaker how it feels when you feel like you are being singled out because Vice Mayor Patton felt that way when he first sat at the council table. Vice Mayor Patton pointed out that Councilman Whitaker stated that Mayor Griffin hosted the event, however that advertisement stated that Mayor Griffin was a guest.

Councilman Whitaker stated that he is not just speaking for himself. The vast perception that has been created is that the Town was involved. He continued by stating that council tries to stay out of politics as much as possible in an official role but not in a private role.

Councilman Bond questioned that if "Mayor" had been left off the advertainment, would it have been fine. Councilman Whitaker noted that he was unsure because he saw photos after the fact of the two candidates together. Councilman Bond stated that at some point as council members we have to work with all candidates, whether it's who we vote for or not. Vice Mayor Patton questioned Councilman Whitaker's attendance when Senator Kaine come to Floyd. Councilman Whitaker noted that he attend the Habitat groundbreaking because he is a member of the Chamber of Commerce and the Chamber sponsored the event. Councilman Bond stated that Councilman Whitaker's attendance was not noted in the article in the Floyd Beacon and continued by questioning who the author of the piece was and stated that the author of the article should be listed. He also stated if the Beacon is going to include a member of the council that was in attendance at an event, then all members of Council that attended should be included.

Mayor Griffin asked Councilman Whitaker what "vast" perception means? Councilman Whitaker stated that he heard comments stating that it looks like Town is endorsing the candidate. Mayor Griffin stated that some comments and vast perception are very different. Councilman Whitaker stated that he is not just speaking for himself, others have made comments.

Vice Mayor Patton stated that sometimes it not what we say or what we have done, it is the appearance of impropriety. He noted that when we (council members) come to the table, we represent the town and the people who elected us.

Councilmembers closed the conversation by noting that healthy conversation is good and that it's good not to hide the tough discussions behind a wall.

Council members discussed the email regarding right of way encroachment from Mr. Jessie Miller with the Virginia Department of Transportation. Councilman Turner asked for clarification on Town trash receptacles that are currently located within the VDOT right of way. Town Manager Cox stated that the Town would need to complete a land use permit with VDOT, the permit fee is \$100 and \$10 per receptacle. She continued by stating that she is going to ask that the fees be waved since the receptacles are a part of Town beautification, help keep the street clean, and they have been in place for a number of years.

Councilman Whitaker ask what constitutes the right of way. Town Manager Cox stated that VDOT completed a right of way study a number of years ago and the right of way is based off deed and plat records. Vice Mayor Patton noted that it has been called to his attention that Ms. Wagner feels that you (Councilman Whitaker) are the go-to councilman to get things done. Vice Mayor Patton questioned Councilman Whitaker and asked if he felt that we (Town Council) where being fair. Councilman Whitaker stated if something is within the VDOT right of way, they are the ones that are taking care of it and it is not a Town decision and the rules should be equally enforced. Council

members continued by discussing the maintenance of grass within the VDOT right of way. Mayor Griffin added that along Route 8 and Route 221, VDOT owns the grass area and sidewalks along the road and, in many cases, we as citizens, maintain part of that right of way by mowing the grass areas along the sidewalk and along our property lines. It was consensus of councilmembers that enforcement of the right of way encroachment should be enforced equally and uniformly throughout Town.

On a motion by Vice Mayor Patton, seconded by Councilman Bond, and passed, it was resolved that the Town Council supports the enforcement of the encroachment within the Virginia Department of Transportation (VDOT) right of way to rectify the situations under VDOT rules and regulations which we (Town Council) are assuming will be uniformly applied to everyone.

Vice Mayor Patton-aye  
Councilman Turner-aye  
Councilman Whitaker-aye  
Councilman Bond-aye  
Mayor Griffin-aye

## **BOARD APPOINTMENTS**

### **a. Town of Floyd Planning Commission**

Vice Mayor Patton stated that he did not see it necessary to go into closed session to interview Ms. Judith O'Connor for consideration of appointment on the Town of Floyd Planning Commission. Councilman Bond stated that Mrs. O'Connor attended the last Planning Commission, and he feels she would be well suited for the position.

Vice Mayor Patton makes a motion, seconded by Councilman Bond, to appoint Ms. Judith O'Connor to Town of Floyd Planning Commission to fill an unexpired term ending December 31, 2023.

Councilman Turner-aye  
Councilman Whitaker-aye  
Councilman Bond-aye  
Vice Mayor Patton-aye  
Mayor Griffin-aye

## **CLOSED SESSION-**

None

## **ADJOURNMENT-**

Councilman Whitaker makes a motion, seconded by Councilman Bond, and unanimously carried, to adjourn until October 21, 2021, at 5:30 pm at the Floyd Town Hall.

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**Will Griffin, Mayor**

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**Katie Holfield, Town Clerk**