

Town of Hurt Meeting Minutes  
January 4<sup>th</sup>, 2022  
Hurt, Virginia

The Town of Hurt Council members held a call meeting on Tuesday January 4<sup>th</sup>, 2022, at Hurt Town Hall. The meeting opened at 6:00 PM by Mayor Gary Hodnett with a quorum present.

**Roll Call**

Member's present were Mr. Collin Adams, Mr. Gary Poindexter, Mr. Donney Johnson, Mrs. Shirley Barksdale-Hill, and Mrs. Kathy Keesee via phone call.

A motion was made to enter closed session to discuss personnel, prospective business, and real estate, as authorized by VA FOIA § 2.2-3711 A (7)

Motion: Mr. Poindexter                      Second: Mrs. Barksdale-Hill                      Passage: Unanimous

Council entered closed session at 6:02 PM.

Council exited closed session approximately 6:50 PM.

A motion was made that only personnel and prospective business matters were discussed during closed session, as required by VA FOIA § 2.2-3712 (D).

Motion: Mrs. Barksdale-Hill                      Second: Mr. Adams                      Passage: Unanimous

**Invocation and Pledge of Allegiance**

Invocation: Mr. Poindexter

Pledge of Allegiance was led by Mayor Hodnett.

Attorney Eller mentioned he wanted to discuss the public hearing for a second. Attorney Eller states that each ordinance change needs to be discussed individually and asked if there are any comments.

Mayor Hodnett states that we will go through them and ask if anyone wants to say anything at the public hearing, but if no one shows up do we still need to discuss them? Attorney Eller states yes, we still need to go through them and discuss them.

**Consent Agenda**

Mayor Hodnett ask if we can move forward with accepting the December meeting minutes and this month's budget expenditures? Mr. Poindexter stated that he and the mayor met a couple of times and started reviewing the budget that it is still a work in progress, it has been some issues with where items are posted. It is important that these things go in the right line item, or our guidance will be off. Mr. Poindexter states it has been a good progress on that, and he appreciates our mayor and employees for diligent work on this, and he sees it getting better each month. Mr. Poindexter states he will continue to keep an eye on it and improve anything that was encountered last year. Mrs. Barksdale-Hill states that there were a few line items that were labeled as miscellaneous and from what I understand from our

mayor he is working on trying to get them in the proper line item. Mr. Poindexter stated one of the things that he and the mayor discussed was that there were some items that had no where to go so they ended up in miscellaneous, and that can happen occasionally, but miscellaneous is not the place where you typically want to see many items. If it is that many then we need to create some new line items to show clarity on where things need to go. Mayor Hodnett states in defense of the staff, looking at the payables they were seeing how things were coded prior and they were going through those and labeling them as they had been before they came on board. We knew some mistakes had been made, with everything else going on I had decided not to move on them until later in the year when we had the time to work on it.

A motion was made to approve December minutes as is and budget expenditures.

Motion: Mr. Adams

Second: Mr. Johnson

Passage: Unanimous

#### **Discussion from closed session**

A motion was made to approve the adjustment to employee's condensation as agreed to in closed session.

Motion: Mr. Poindexter

Second: Mr. Johnson

Passage: Unanimous

Mayor Hodnett asked if anyone would like to add to the agenda? No comment. Mayor Hodnett states we are coming close to the point in the meeting that we would open the floor to the public hearing, Attorney Eller states we advertised for 7 so we must wait until 7. Mayor Hodnett stated alright we will move on.

#### **Appointments for SRIFA, Vice Mayor, and Planning Commission**

Mayor Hodnett states lets start with SRRIFA, we will have to have 3 members, 2 sitting members and 1 alternate. Mrs. Barksdale-Hill asked if Mayor Hodnett was planning to stay on? Mayor Hodnett states yes, he will go on and stay if council wanted him too, Mrs. Barksdale-Hill stated that she suggests Gary Poindexter take her seat. Mr. Adams asked if Mr. Johnson wanted his alternate seat, Mr. Johnson stated yea he can do that. Mayor Hodnett stated so Donney will take the alternate seat, can we make a motion to just approve all 3 of these? Attorney Eller stated yes.

A motion was made to accept Gary Hodnett and Gary Poindexter as members and Donney Johnson as an alternate on the SRRIFA.

Motion: Mr. Adams

Second: Mrs. Barksdale-Hill

Passage: Unanimous

Mayor Hodnett stated next is the Vice Mayor, any interested people in serving or do I hear a motion of nomination? Mr. Poindexter stated he he thinks our current Vice Mayor has been an excellent Vice Mayor and I want to make Shirley Barksdale-Hill our Vice Mayor for 2022. Mr. Adams stated he would like to nominate Donney Johnson as Vice Mayor also. Mayor Hodnett stated so we have Donney and Shirley, we will have to take a vote on that. Vote was taken for Vice Mayor: Shirley Barksdale-Hill, Gary Poindexter, yes, Shirley Barksdale-Hill, yes, Kathy Keesee, yes. Vote was taken for Vice Mayor: Donney Johnson, Collin Adams, yes, Donney Johnson, yes. Mayor Hodnett stated Shirley is Vice Mayor. Mayor

Hodnett states for the Planning Commission appointments, he talked to Gary, and he said he would continue to serve, and Jeremy Shelton said he would continue to serve. Mayor Hodnett asked if Glenn would consider serving on the Planning Commission, Glenn responded yes. Mayor Hodnett stated they are our 3 appointments for the Planning Commission, and could we get a motion to pass all three of these guys?

A motion was made that Glenn, Gary, Jeremy, and Collin stay on the Planning Commission as representatives.

Motion: Mr. Adams

Second: Mr. Johnson

Passage: Unanimous

Mr. Poindexter asked where we were with the BZA? Mayor Hodnett states we have 3 people considering but nobody has said yes at this point. He states he will go back again and ask them. Attorney Eller states it would be a good idea if both the BZA got some training about the laws that would affect what they will be doing, since everyone would be new, as well as the planning commission, he states he doesn't know if any of the Planning Commission has been through any kind of training, Mr. Boggs stated not that he knew of. Attorney Eller states the Planning District Commission provides that service and may even be without charge, Eller states he talked with the chairman of Planning District Commission association, and he said he would investigate that and set up a training session that both could attend, about zoning laws. Attorney Eller states this would be a good thing for everyone to do, and the other thing is the foyer and conflict of interest training that is required for council. Attorney Eller states for the ones that have not done it there is a link online and takes about 2 hours. Attorney Eller stated 2 hours to those who have not done it. Attorney Eller states what about the appointment of the interim council member, was there a response? Mayor Hodnett states we have 3 people, and we are going to meet again on the 18<sup>th</sup> and interview those, and hopefully the 2 that don't get the council seat will be interested in the BOZ. Mr. Poindexter asked have we set a time for the 18<sup>th</sup>? Mayor Hodnett stated I would like to do 6:00PM, and I will notify them tomorrow.

### **Public Hearing**

Attorney Eller stated we have the Planning Commission here and we have been through the ordinances so with this joint meeting we will go through them. Mayor Hodnett asked if Michael Blackstock had anything he wanted to say about these ordinances or his property? Attorney Eller stated we are going over the ordinances his property will have to be separate. Attorney Eller stated if he wanted to comment about any of the ordinances then he can. Attorney Eller states first we have cross connection and backflow and control ordinance, which is a complete rewrite from the old cross connection and backflow prevention ordinance which has been provided to us by Tom Fore as being the proper ordinance that we need now, and it is a 11-page ordinance. The next section is 4-14 which is yard regulations in the R1 district, which is accessory buildings can not be placed in the front yard or less than 5 feet from the side of rear of the lot, the propose of this is to prevent people from putting accessory buildings in front of their house, same thing in 4-26, yard regulations in R2, it says the same thing. Mrs. Barksdale-Hill stated this doesn't mean garages, does it? Mayor Hodnett stated it means the metal portal able ones. Attorney Eller states any accessory structure building that is not connected to the house, if somebody has a garage that is in front of the house and not connected then I am not sure how

that will play out, Mayor Hodnett adds that he doesn't know if he has ever seen any in the Town. Michael Blackstock states he disagrees with this ordinance; he states if you ride through Hurt, one example is Spring Street and Spencer Road, you have a detached garage with a shingle roof that looks nice for that house, according to this new regulation you wouldn't be able to put that same carport up because it is not attached to his house. If you go by Mr. Adams house if his garage would have been 10 feet further out towards the road from his house, his garage and building adds appeal to his house, but if that building and the landscape of the yard hadn't been done like it was and say he had to do some grading, a lot of the houses and yards in town are on cliffs or hills and he had to come forward any then he would have had to come to town and get a special use permit, and the home owners would have had to pay to have it advertised in the paper, Attorney Eller stated yes you have to have a variance advertised. Michael Blackstock stated there are several metal carports in the town of Hurt. Attorney Eller states they are nonconforming, lawful nonconforming because they got it in there before this was passed, assuming this gets passed they are nonconforming. Mayor Hodnett states this is all going forward, it doesn't affect the ones that are in existence now, Blackstock states he realizes that, but is it fair for the neighbor to have to come get a special use permit, if the other neighbor has a carport that he pulls his car under? Attorney Eller states these are all comments that the planning commission will take in consideration. Mr. Johnson asked suppose you build this, and you have a walk way or sidewalk to your house? Attorney Eller stated a sidewalk does make it part of your home. Mrs. Barksdale-Hill asked if a connection roof would make it part of it? Attorney Eller stated yes. Next is 4-82, use regulations in C1, we have one change, it would be adding construction business offices to the uses that are permitted with a special use permit. Eller asked if there are any comments from the public? No comment. Next is 4-99.1 which is a requirement before anyone can get a permit from the town for anything that they want to do they will have to show that they are in compliance with their tax obligations, have their licenses and have not violated the ordinances or anything that will result in a lien on their property, if they can do that then they can get their permit, but they can not get the permit unless they are in good standing with the town. Any comments on that one? No comment. Next one is inspection warrants, that is a provision that makes it possible for the zoning administrator to go to the magistrate in Chatham and if the zoning administrator said there was a violation in the zoning ordinance then they can fill out a warrant or a application for a warrant, and if the magistrate finds it is a probable cause for a violation under the zoning ordinance for a public nuisance, then it would allow the zoning administrator to go on the property, but it has to be by the administrator. Michael Blackstock asked who is the zoning administer for the Town? Attorney Eller states in the past it was Ed, so I suppose now it is Joe. Mayor Hodnett states council can appoint anyone. Mr. Poindexter stated traditionally it is the public works, mayor Hodnett added we do not want to put that on Joe. Attorney Eller stated this is something council needs to decide. Mike Jones added just a reminder this would primary make him the person to obtain those warrants. Attorney Eller states next is 4-127 which covers the organization of board of zoning appeals, section B states that we have 5 members, but we are opposing this, we plan to reduce it to 3 which is allowed by state code for towns that have less than 3000 people. Attorney Eller states that Mayor Hodnett says it is easier to get 3 rather than 5. Any comments on this? No comment. The last one Attorney Eller states 4-133 is the advertising requirements for zoning matters, in a new section E added that requires for a rezoning application for a piece of property, a sign must be posted on the property that describes the action that is being requested. This is something we have not had before but it is

something that most all localities require. If you have been in the county, you will see signs posted in front of the property that say “zoning action”. Any comments on this one? No comment. Attorney Eller states this is the end of the public hearing. Mayor Hodnett stated we are closing the public hearing at 7:14pm. Attorney Eller states the planning commission needs to go somewhere else and discuss these and return to us with a recommendation. Mayor Hodnett states Mr. Adams needs to go with them to make it a quorum.

### **Michael Blackstock Rezoning Ordinance**

Attorney Eller asked if we had Michael Blackstock on the agenda? Mayor Hodnett stated no, but we will be more than willing to add him. Attorney Eller stated well as a citizen he is here. Attorney Eller stated on this matter we discussed this thoroughly at the Planning Commission meeting, and at that time Mr. Blackstock had applied for a rezoning and had a special use permit for the property there on the corner of Tanyard Rd and Prospect Rd. Then it came up that he believed that he had a nonconforming use, that he could prove the property has always been used even back when the zoning was put into effect. The first zoning was in 1967 as a part of the Hurt Town code, that whole area was R1 zoning, the property has had various uses through the years. Just in general a nonconforming use is a use that is not permitted but the zoning regulations, which have a lawful nonconforming use and you have an unlawful. If it was done after the ordinance was passed and doesn't look fit within the classifications that are permitted, then it is unlawful nonconforming use, if it was started before the ordinance went into affect then it could be a lawful nonconforming use and can continue if it doesn't cease for a period of 2 years. If it does cease for a period of 2 years, then it can't be reinstated unless it is rezoned. The only uses that can be made at that property would be what is permitted in that zoning district, the owner of the property that is claiming this as a lawful nonconforming use has the burden of proving that the use continued from before the ordinance was passed without stopping for a period of 2 years at any point, the owner would ask for a certification that issues it as a lawful nonconforming use, and I think that is where we left it at the Planning Commission meeting with Mr. Blackstock. He was going to provide evidence of his lawful nonconforming use at this meeting, and that is where we are. He must show evidence of the use going all the way back to when the zoning ordinance, originally came into effect. Attorney Eller states from what I see we have some statements of various businesses. Attorney Eller states so this puts you back to 1967 with various businesses, the supreme court cases that have addressed this question are specific, they are specific about a use that was put into affect before the zoning ordinance came into affect. This is up to the council whether the statement of various businesses would qualify as any kind of actual use. You got a statement from Nancy Roberts that it was used a beauty parlor from 1975-1984, do we have a copy of these for the Council, Council must have them. Attorney Eller states it was Designers Touch from 1995-2008, and then Charles Hammer had a storage from 2007-2021. Looks like it was a gap from 1982-1995. Mr. Blackstock states the owner during that period is deceased. Attorney Eller asked if the owner is deceased then it wasn't used at that time? Mr. Blackstock states no since the business was there it was an owner but since then he has passed away. Attorney Eller states he doesn't understand what he is trying to say. Mr. Blackstock stated Pete Daniels operated the business, it was a ceramic shop and had tanning beds in there but they are deceased so I couldn't get a statement from them and so is Mr. Martin from 1967-1972. Mr. Martin had a grocery store there and he is now deceased. Attorney Eller states so you think it was used but you just don't

have anyone to make a statement. Mr. Blackstock states he can go back to their families probably. Mr. Blackstock states he talked to Mr. Hunt today, Jimmy Hunt, and his dad owned a building during the early 70s, and he remembers selling fuel, but he doesn't remember owning the business. He is 90 years old, and he didn't remember owning the building. Attorney Eller states well this is thin for all that you have, do you think you can get more, I'm not saying this is going to do it. Mr. Blackstock states he has the statement from Emily Mayhew stating she has lived in Hurt prior to 1965 and she has always known it to be businesses in that location. Attorney Eller states well what does Emily Mayhew say was in there and what months and days and years was each business in there? When you go to court you have to have real proof? Mr. Blackstock states John I am not in court I am at the Town Hall and I have been down here 4 times asking to get a business to be put in that building, I've been to each resident that joins that property, and nobody has a hard time with me putting a business in it, every resident that I have talked to is pleased that I have fixed the building up. If this gets put in the paper then it will give the residents an opportunity to voice their opinion about the business, correct? Attorney Eller states this will just be a finding by the council that it exists or doesn't exist. Mr. Blackstock states that H.A. Merricks stated he has lived in Hurt all his life and it has been a business. Attorney Eller states what business? Mr. Blackstock states I got the information that I can find today. Attorney Eller states if someone complains about this or sues about this the council needs to know that they can backup their decision. They need be able to point to evidence of the uses that the property was put to and the years that they were in there, you have mentioned any of these being construction offices. Mr. Blackstock states to my knowledge it never has been construction offices. Attorney Eller says well the cases say that your nonconforming use needs to be of the same character as what you are wanting it to be. Mr. Blackstock states it has been different characters over the years from a ceramic shop to a tanning bed parlor, to a service station, to a barber shop. Mayor Hodnett states based on what you sent me today, the way I understood it from 1967 forward it had to be basically the same business from the word go from 1967, the character couldn't change. Attorney Eller stated right. Mayor Hodnett stated so anything after 1967 according to that they were probably all illegal businesses in that building because they didn't follow the character of the business from 1967. Attorney Eller asked what was it in 1965? Mr. Blackstock stated it was a grocery store. Attorney Eller asked when did the grocery store end? Mr. Blackstock stated in 1972 when Roy Roberts took over, and he made it a gas station. Attorney Eller states ok so if you had a grocery store in effect when the zoning ordinance went into effect, and that the case we sent you, it is what required that use to be going forward until now, but if you move into another type and this is what that case says, then it is not a lawful nonconforming use anymore. Attorney Eller states that Mr. Blackstock needs a lawyer. Mr. Blackstock stated the Town needed a lawyer, Mayor Hodnett states we have one sitting right here and he has presented to you this case. Mr. Blackstock stated, well Gary how did the previous business from 1967-1972, how did they go in? Mayor Hodnett states that he can only speculate that nobody checked them, they probably didn't have a business license, probably ran the business, but that don't mean that it was legal, because if you look at the state code, or the supreme court, or the case that was tried it's illegal, therefore I asked Attorney Eller because they were illegal businesses. Attorney Eller states yea if it came into effect after the zoning ordinance was put into affect then it is not permitted in that district, it is illegal nonconforming use. Mayor Hodnett states that is what he wanted to clarify that he can't explain it and someone either said it was okay or they just went ahead and started the business and council never questioned it or brought it up. Mr. Blackstock stated well this

bank right here was making for roughly 15 years and then was empty, Carter Bank and Trust owned the building and then it was sold and now it is a funeral service, I realize this zoned as commercial, did they lose their status? Attorney Eller stated well isn't that a commercial use. Mr. Blackstock stated it went from a bank to a funeral home. Attorney Eller stated if they are in the category that is permitted within the district then it doesn't matter you can switch all around as long as you are within the district. Mr. Blackstock states that building is TZ which you informed me at the first meeting that is is residential R1, my building 301 Prospect Rd, that building doesn't have any shower units or tubs, it doesn't have any bedrooms in it, it has never been a dwelling. It is in a R1 district, why won't that building at the time of zoning in 1967 made C1 instead of R1? Attorney Eller stated I wouldn't know. Mr. Blackstock stated even B & B Market is zoned R1, Mayor Hodnett stated well he even said at the other meeting that the construction in the basement was nonconforming and shouldn't have been authorized. Attorney Eller states if the building was used as a convenient store at the time of the zoning ordinance, then that would make it an illegal nonconforming use, this is a good example, but if you went in the basement and did construction after the zoning ordinance was in effect then that is an illegal nonconforming use that you have been able to get away with. Mr. Blackstock states I didn't get away with it, I came down from 2015 and had business license for Blackstock construction and for the 12 vehicles that I had I paid Hurt town Taxes for them. Attorney Eller states well in that state code I sent you, it is a new provisions that we are going to be looking at to put in the zoning ordinance that will state that the Town may, doesn't have to but may provide that if a business has had a business license even if it is nonconforming and the owner continues to operate and pay his taxes for 15 years then they have the right to apply for a special use permit. Eller states you can operate by getting your business license and paying taxes for 15 years then you can be legal in that building. Mr. Blackstock states I have only been operating for 6 years, I won't make it to 15. Mayor Hodnett states if it was done wrong in the past is it considered right to keep doing wrong? Mr. Blackstock asked are we here tonight for the Planning Commission to give me the hands up or hands down for the proposal to put the business in the location? Attorney Eller states we are at the position of determining whether you have a legal nonconforming use. Attorney Eller states this is up to the council to decide that, if they decide you are then you go ahead and if they decide you are not then you fall back on getting it rezoned or trying to get it rezoned, right back where you were, rezoning and special use permit. If it gets rezoned commercial tonight, then it looks like we are going to pass the news of a construction office in a C1 then you will need a special use permit. Mayor Hodnett states we will revisit this after the Planning commission.

### **Planning Commission**

Mr. Boggs stated after reviewing everything and going over most of these, he states I think we can approve all of these. The only one that we had any discussion on was what Mike was talking about, and we did approve that one as well as it is written, with a suggestion that later we might want to come back to that one as we get into a problem, I don't think we will, but if we should then we might want to relook at it. All the others we approved with no discussion, we can go over them all again if you would like or we can just approve them as a bunch as recommend that council approve them. Attorney Eller states yea just make a statement that the planning commission has considered the following ordinances and just list them as the sections and that you approve them as written. Mr. Boggs stated after our meeting we did make the decision to approve and going over them one at a time different articles on it,

section 4-14 with the town code of hurt, also sections 4-99.1 with the town code, section 4-82 with the code of the town, section 4-105.1 coded to the town, section 4-127 coded with the town of hurt, 4-133 coded to the town of hurt, and the one on the backflow preventers it is quite a few sections in it, 11-25, 11-26, 11-27, 11-28, 11-29 relating to the cross connection and backflow prevention and replace it in its entirety and the article 4 part 1 section 11-25 through 11-29.3. 11-29 named propose and administration and 11-26 the definitions. Attorney Eller stated did you also look at section 4-26? Mr. Boggs stated yes, we did, Eller states so this is in with your recommendation? Mr. Boggs stated yes, it is missed that one. Attorney Eller asked if the Planning Commission agreed with Mr. Boggs? They all state yes. Mayor Hodnett stated thank you Gary and Planning Commission.

Mayor Hodnett stated so now this is being moved to council are there any discussions or any motions?

A motion was made to approve these ordinance changes, the one for the backflow preventers 11-25, 11-26, 11-27, 11-28, 11-29, 11-25 through 11-29.3, next is yard regulations section 4-14, section 4-26 yard regulations, section 4-82 amendment on construction business office, 4-99.1, applicable to pay delinquent taxes, section 4-105.1 inspection warrants, section 4-133 advertisement and notice requirements for all zoning related activities, and 4-127 board or zoning appeals to change it from 5 to 3 residents for zoning appeals.

Motion: Mr. Adams

Second: Mr. Johnson

Passage: Unanimous

#### **Michael Blackstock Rezoning Ordinance**

Mayor Hodnett states we are determining whether this can go in as a NCU or not, and this is based on the state law. Mayor Hodnett states is there any discussion on this, we have heard the state regulations and you have heard Mikes side of it. Mr. Adams states he didn't hear the state regulations. Attorney Eller states that the code comes from the state, the nonconforming use of the land or lawful use of land exist in the time of act of this ordinance that will not be permitted by the regulations, such use may be continued if it remains as otherwise lawful. This is about enlarging it etc., a nonconforming use may be enlarged or increased. Section 4-124 if any nonconformity of any type ceases for any reason for a continuous period of 2 years or more or is changed to or replaced by a conforming use, the land and building therefor devoted to such nonconforming use shall thereupon be subject to all regulations as to use for the zoning district in which such land and building are located as if such nonconforming use had never existed. Attorney Eller states that are the rules, but as we said the interoperation at the time the zoning was passed it was determined the grocery store. Mayor Hodnett stated so based on this it would have to remain a grocery store. Mr. Blackstock stated I didn't see where it said it had to remain a grocery store. Mayor Hodnett stated it must follow the character as the original building. Attorney Eller stated it is not in that code it is just an interpretation of a nonconforming use law. Mr. Blackstock stated that Charles Hammer sent him a statement saying "I purchased the building at 301 Prospect Rd in the town of Hurt from the Daniels Estates back in 2007. The building was purchased through the LLC of Langhorne Road Investments. At that time, I also owned the mobile park on Dogwood Lane in the town of Hurt and used the building at 301 Prospect Rd for commercial storage. The building has been used for commercial storage from the time I purchased it up until the building was sold in November of 2021 to Michael Blackstock. Charles Hammer". Mr. Blackstock states this carries us back to 2007 it was used for



commercial, after getting a phone call from Gary today stating I need to go back to 1967, I went back and did more research I got the letter from Tina Reynolds, stating it was used at Designer Touch's from 1985-2008, which carries us back to 1985, then I talked with Nancy Roberts, where she used it as Frosites Beauty Parlor, the owner of the building was Jimmy Hunt and later Muriel Payne during Nancy's years of business, her former husband Roy Roberts ran a service station from 1972-1982, then talking with the citizens of Hurt Pete and Doris Daniel are both deceased and they ran it from 1984-1985, ceramic shop and a tanning salon was in it. Russell Martin ran a grocery store out of it during the 60 and 70s and he is deceased as well, so I got a statement from Emily Mayhew about 301 Prospect Rd where she agrees that the renovation of the building looks nice and thinks that Blackstock Construction should be granted a business license at this location. Other than the people that are deceased I went back and got information stating that it has been used for a business, whether they got business license I don't know but my documentation shows that it has been a business. Mr. H.A. Merricks states he has always lived in the town of Hurt and known it to have business in it. Attorney Eller states well the question is not is it commercial it is what the existing use and the exact use was. Mr. Adams states it hasn't been the same two businesses in it since it was built, my opinion and I am unsure of the legal part of it, but I think we should move forward with it and let Mike have his business in there if we can do it legally. He states he has fixed it up and made it look nice, and I have been around the Town of Hurt for a while and I can't remember that building sitting empty long, maybe a year or so. Mr. Merricks states he would hate to penalize someone like Mike who has done as much as he has for the town, he states there is an exception to every law, but he thinks we should let Mike use this building as his business and we will be glad to get him the permit. If word got around that we wouldn't let someone upgrade the town with a business, then we would be penalizing the town of Hurt. Mr. Boggs stated he doesn't remember it being a grocery store. Mrs. Keesee states she does, she was a child, it was a big deal, and it has always been a business there, but it has not been a grocery store since Mr. Martin passed and left it. It has always been something else. Mrs. Barksdale-Hill states she is on the side with going for with what the law says, I would like to see Mike have something there but also abide by with the rules of getting it there, I am not for to keep doing what has always been done, I want to see us going forward and be pictured as business friendly but go by the rules. Whatever it takes for us to get it done, I am all for it, states Mrs. Barksdale-Hill. Mr. Johnson states what can we do to make this happen, he is at a position where he wants to get him there, he has spent a pile of money to fix it up and has done a lot for this town. Mr. Poindexter states he would like to see us be business friendly, but he wants to see us do it the right way, we are not in any position to say where the rules don't apply to everyone. We don't carve out exceptions here or there, we need to make sure we are going about this the right way, and we want to get Mike there. Mayor Hodnett states he agrees that he would like to see Mike in that place with his business, but for way too many years this town has operated by the seat of its pants and its shameful and we need to do it right, we can not give him the exception or turn our head and look the other way for him because how will enforce anything in this town, it will always come up well one did it this way and the other did it that way, I want to see him there but I want to see him there right, by the ordinance and by the rules, that way when someone ask the question we can say it was done right. He didn't get over us like the other 27 people that did. Mayor Hodnett states so John it doesn't look like it is going to work as an NCU, so how can we get Mike in the building, does it go back to the SUP? Attorney Eller states go back to the SUP and rezoning and then you will be following the law. Mayor Hodnett states Mike, I think

you see that if it goes by the SUP and then you will not have a problem would you agree with that? Mr. Blackstock states it depends on what kind of stimulations is put on that special use permit. Mr. Boggs stated you would have to rezone as much as 5 lots not just 1, it is the zoning manual. Attorney Eller states that would be the next step to request the rezoning. Mr. Adams do we as a town have the privilege by zoning and saying ok, does it have to fall under some law that is above us? Attorney Eller states it is up to the circuit judge, if they council find that it is a nonconforming lawful use then the people in the town have the right to file an appeal to the circuit court, but if we find that there is no lawful nonconforming use then Mr. Blackstock can file an appeal to the circuit court. It is a higher power it is the judge in Chatham, it is not totally power in the town, but the town must follow the law. Attorney Eller states he thinks the judge would be sympathy to both sides. Mr. Blackstock stated how many businesses are in the R1 zoning. Mayor Hodnett stated his guess would be only B & B Market. Mr. Adams said so this has been illegal, and Mike is coming in here trying to get it legal and it's falling on him. Attorney Eller states that the normal process, when you're buying a piece of property that you will not buy it until the zoning issues are corrected and you have the right to back out of the deal until the zoning it right, the solution to this is do not buy it until the zoning is corrected. Mayor Hodnett asked Mike how he wanted to proceed with this? Mike stated he does not want to proceed with the rezoning or special use permit. Mike states he bought it has an investment property and he realizes that it was zoned as R1, if the council can't decide that it can be used as a lawful nonconforming use then he will go to the county and frame up bedrooms and use it as a rental dwelling. Attorney Eller states it can be a rental dwelling, Mike stated he will take his business to the county and his 12 vehicles that he is paying taxes on. Mayor Hodnett stated then how do we proceed? Attorney Eller stated it is up to council. Mr. Poindexter stated he has a question, if this was approved as a NCU and was challenged with a history of multiple businesses, would that carry any merit into considerations, how would a court look at that. Attorney Eller states they would have some sympathy. The judge will look for the proof, and the proof is not going to be that there was a grocery store. Mayor Hodnett states we have made a lot of mistakes would they judge cover for us, stating that would be the question to the judge. Attorney Eller states it would be wise to have an advertisement of this and let the public know, and if they are in favor of it then they can come down and support it. Mr. Poindexter stated if we did have a public hearing then the town would be in better diligence and be in a better position if we ever were challenged. Attorney Eller states it is a good idea to have a public advertisement. If it done this way, then the town will say it wasn't knowledge. The final decision should come after it's been a chance for the public to know. Mayor Hodnett states we can do that at the February Meeting. Attorney Eller state he will not be at the meeting on the first Tuesday of the month if we want to move the meeting back. Everyone agrees to move the meeting to February 15<sup>th</sup>. Mayor Hodnett asked if this was okay with Mike? Mike states yes. Mayor Hodnett states this way we are covered. Attorney Eller states if the public comes to council and complains the council can hear it. Mayor Hodnett states is everyone ok with moving the meeting to February 15? Everyone agrees.

A motion was made that council hold a hearing on February 15, 2022 @7:00pm to consider a request by Blackstock Properties LLC to certify the lawful nonconforming use of the property at 301 Prospect Rd at which hearing council will consider evidence as to the existence of such nonconforming use as well as public comment thereon.

Motion: Mr. Poindexter

Second: Mrs. Barksdale-Hill

Passage: Unanimous

### **Report from Legal Counsel-Attorney Eller**

Attorney Eller stated him, and Mrs. Barksdale-Hill are still working on the review of the ordinances, and they will have packets for the next meeting on the 18<sup>th</sup> of this month.

### **Reports from Staff**

Administrative: Ellen Brumfield, Treasurer reported the General Fund account balance is \$434,748.30. She stated of the general fund ARPA is \$236,549.00 and the PD Fundraiser is \$112.02. She states our balance of operating is \$198,087.28. Ellen states that the interest for the year is \$32.62. Brumfield reported that in the LGIP accounts as of November 30<sup>th</sup>, 2021- water infrastructure \$167,271.34, YTD \$71.34, General Operating \$177,627.27, YTD \$117.66, Town of Hurt Water \$297,769.84, YTD \$214.26, PDDR \$4,997.31, YTD \$3.74 with a total balance of \$647,665.76, YTD \$407.00 reinvestment income.

Administrative: Kelsie Sligh reported that all the delinquent Real Estate Taxes have been sent out and that she is working on Personal Property delinquents now. She states we are going to start leaning on the DMV stop. Mrs. Barksdale-Hill asked when it that going to be up and running? Mrs. Brumfield stated that it was already up and running and that we have had 2 people call stating that had a hold on their accounts at the DMV. Sligh also reported that she is setting up a new way to reach residents by phonevite and text magic, this will help the Town send out all important updates to all residents that sign up for it. Mayor Hodnett states he is working on the letter, and we will have that out this week.

### **Public Works**

Public Works: Joseph Smith reported that the water billing collection is at 88%. He states he repaired a water meter at 604 Pocket Rd and repaired a new radio water meter at 308 W. Hurt Rd. Smith reported that he called AIC to find out about what is needed for alarms at water pump station and sewer stations. Smith states he worked with Tom Fore on mapping out water system lines, valves, hydrants, meters, blow offs, (size, locations, reducing fittings, and footage). Lastly Smith states he is working with 811 on newton membership and member grid maintenance for mark out Polygram's.

Mayor Hodnett stated he wanted to ask Tom Fore a question, since you have come on board, a lot of things have changed, how do you see the Town progressing compared to where we were? Tom Fore replied as far as utilities go, he states we are really picking up speed, Joe is catching up to where he needs to be. Tom states he is showing him things that need to be addressed. He states he is showing Joe the how and why things are operating. Tom states he is getting through the book and almost to the end of it and he is proud of him, he is getting into the math part now, he is learning all the numbers he needs to know to operate these machines and system. Mayor Hodnett asked Joe how long he has been with the town? Joe states since September. Mayor Hodnett states so in about 3 months we are going to have an actual water licensed person in town, first time ever.

### **Police Department Report**

Calls for Service-

Civil Complaints- 1

Aggravated Assault-1

Public Service- 10  
Disorderly Subject- 1  
Noise Complaint- 1  
Breaking & Entering- 1  
Sex Offense- 1  
Animal Case- 1  
Assist Other Agencies (Emergency Services)- 1  
Drug Offense- 3  
DOA- 1  
Paper Served- 1  
Mutual Aid (LE)- 1  
Trespassing- 1  
Traffic Stops- 2  
Mental Subject- 1  
All other offenses 2  
Other:  
Miles Driven- 1539  
Training- 0  
Assist Other Town Departments- 1  
Use of Force- 0  
Department/Officer Complaints- 0  
Department Updates-

The department along with support from the community assisted 12 children at Christmas time. The department assisted Altavista Police Department with Shop with a Cop.

Mr. Adams stated he is still seeing a lot of speeders and whatever we can do to zero in on that would be appreciated. Mrs. Barksdale-Hill stated is Tom still coming along well? Chief Lovelace responded yes Tom is coming along great, no complaints.

## **Public Safety/ Assistant Town Manager- Mike Jones**

### **If You Test Positive for COVID-19 (Isolate)**

Everyone, regardless of vaccination status.

- Stay home for 5 days.
- If you have no symptoms or your symptoms are resolving after 5 days, you can leave your house.
- Continue to wear a mask around others for 5 additional days.

*If you have a fever, continue to stay home until your fever resolves.*

### **If You Were Exposed to Someone with COVID-19 (Quarantine)**

**If you:**

Have been boosted

**OR**

Completed the primary series of Pfizer or Moderna vaccine within the last 6 months

**OR**

Completed the primary series of J&J vaccine within the last 2 months

- Wear a mask around others for 10 days.
- Test on day 5, if possible.

*If you develop symptoms get a test and stay home.*

**If you:**

Completed the primary series of Pfizer or Moderna vaccine over 6 months ago and are not boosted

**OR**

Completed the primary series of J&J over 2 months ago and are not boosted

**OR**

Are unvaccinated

- Stay home for 5 days. After that continue to wear a mask around others for 5 additional days.
- If you can't quarantine you must wear a mask for 10 days.
- Test on day 5 if possible.

*If you develop symptoms get a test and stay home*

**Please Review the most recent COVID 19 Guidance from the CDC as listed above.**

### **General Assembly News – Qualified Immunity Update**

This bill designed to place professional and personal liability on to towns and their employees in their personal capacity has been defeated. This would have had catastrophic implications for small towns and their employee's.

### **FEMA Home Study Course for Leadership, Emergency officials and town managers**

<https://training.fema.gov/is/courseoverview.aspx?code=IS-100.c>

## **Guide for Virginia Elected Officials**

[https://vml.org/wp-content/uploads/2017/06/ElectedOfficialsGuide2009\\_0.pdf](https://vml.org/wp-content/uploads/2017/06/ElectedOfficialsGuide2009_0.pdf)

## **Leadership Training Available To Town Council Members & Managers**

<https://icma.org/practices-effective-local-government-management-and-leadership>

<https://www.vml.org/publications/local-officials-resources-series/>

## **Additional Sources for Purchasing Town Supplies from the State of Virginia**

Good source for highly discounted state goods <https://dgs.virginia.gov/office-of-surplus-property-management/public/retail-store/>

## **Town Staff – Procurement Training**

Procurement Training for Local & State govt officials - ideal for you, Kelsie and/or Ellen

[https://dgs.virginia.gov/procurement/VIP\\_Home/home/](https://dgs.virginia.gov/procurement/VIP_Home/home/)

The state provides excellent training in government procurement. Every person who has input into town purchasing – including town council members – should take at least one of these courses line. Should the Town or any of its staff be accuse don unfair practices, your training record – or LACK thereof – will be scrutinized by the State Auditor and the VA State Police Fraud Division.

## **School Shooting Guidance & Information – US Secret Service**

This is very applicable to our two schools.

**Attached please find documents for Council & Staff to retain for future use along with updates of note.**

<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf>

## **Va Municipal League Current Updates:**

<https://www.vml.org/enews-january-7-2022/>

**Big Ideas for Small-Town Revival**<https://www.governing.com/community/big-ideas-for-small-town-revival>

**Town of Chatham Water Grant Funding News:**

[https://www.chathamstartribune.com/news/local/article\\_8f7edaf0-753b-11ec-ad10-eb52f413cc12.html?utm\\_medium=social&utm\\_source=email&utm\\_campaign=user-share](https://www.chathamstartribune.com/news/local/article_8f7edaf0-753b-11ec-ad10-eb52f413cc12.html?utm_medium=social&utm_source=email&utm_campaign=user-share)

**US Bureau of Justice Information Resource:**

[https://bjs.ojp.gov/library/publications/forthcoming?utm\\_content=JUSTSTATS&utm\\_medium=email&utm\\_source=govdelivery](https://bjs.ojp.gov/library/publications/forthcoming?utm_content=JUSTSTATS&utm_medium=email&utm_source=govdelivery)

**Workplace Sanitation Recommendation:**

I recommend that the Town purchase these air cleaners for everyday use, for council meetings and other public meetings

Considering buying a portable HEPA air cleaner for each office and one for the council chamber for general sanitation purposes including COVID19 & Influenza

<https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>

[https://www.epa.gov/sites/default/files/2018-07/documents/guide\\_to\\_air\\_cleaners\\_in\\_the\\_home\\_2nd\\_edition.pdf](https://www.epa.gov/sites/default/files/2018-07/documents/guide_to_air_cleaners_in_the_home_2nd_edition.pdf)

**Va Worker's Compensation Commission Update - Workplace Injury/Exposure Reporting Requirement**

Attached is a form that ANY town employee must complete when there is even a possibility of an injury that is work related. This preserves the employee's and the Town's ability to access workers compensation should it be needed. This form should be completed as soon as possible after an incident and filed with the Town Clerk-who will then send it in to the VWCC.

This applies to all compensated employees.

Worker's Compensation Form – REQUIRED of all on duty injuries – no matter how small. This document must be reviewed by a supervisor, filed with VWCC with a copy given to the employee and another copy placed permanently in their personnel file. It is HIPAA & FOIA Protected

[https://workcomp.virginia.gov/sites/default/files/forms/First-Report-of-Injury\\_0.pdf](https://workcomp.virginia.gov/sites/default/files/forms/First-Report-of-Injury_0.pdf)

**Dominion Power Confidential Emergency Contact List:**

- 1) **Police Activity – Outstanding Service:** Officer Sawyer did an excellent job in apprehending a violent criminal from out of state who stalked one of our residents from out of state across the country to our town. The suspect was charged with felony crimes including assault on a police officer and attempted arson of an occupied dwelling. Had there NOT been a Hurt police officer on duty that night, it is my belief that the victim would have been murdered and her home set on fire had the rapid and professional response of Officer Sawyer stopped a violent criminal in his tracks. That particular night, backup assistance was not available due to the shortage of personnel in other jurisdictions that support us as well as their ongoing calls for service. Every day that we do not have a police officer on duty is a safer day. The goal is to one day reach 24-7 police coverage. This incident is an example of what that coverage prevented.
- 2) **Notice of Enforcement – Property Nuisances and Inoperable Vehicles within Town Limits:** The Property Nuisance Enforcement Notices will be going out this week via the Town Facebook Page. **Actual Enforcement activities will commence on or before March 1, 2022.** The purpose of this warning period is to provide ample notice to property owners and owners of inoperable vehicles to correct the violations **BEFORE** the enforcement begins.

**NOTICE TO TOWN OF HURT VA PROPERTY & VEHICLE OWNERS: February 11, 2022**

**The Town of Hurt Ordinance regarding Nuisances and Inoperable Vehicles on all property within the limits of the Town of Hurt is in full effect.** Accordingly, the Town is publishing this **COURTESY WARNING NOTICE** to all property owners who may have nuisance issues on their property and/or inoperable vehicles on their property. In an effort to ensure the **VOLUNTARY COMPLIANCE** with the law, the **TOWN** is providing **NOTICE** that **on or about March 1, 2022, enhanced enforcement activities regarding nuisances and inoperable vehicles will commence.** Please make every effort to ensure that your property and vehicles are in full compliance with the ordinances.

**If you have any questions about the enforcement of this ordinance or wish to discuss your individual situations, please call Mr. Mike Jones – Director of Public Safety at 434 608-0554 and leave your contact information or you may e mail him at [clerk@townofhurtva.gov](mailto:clerk@townofhurtva.gov).**

**Reports from Membership, Boards, and Commissions**

Administrative: Kathy Keesee stated she tomorrow she will be sending Kelsie new photos for the new slideshow for the website, she states it is going to be titled the four seasons in the Town of Hurt. She states going forward for this year she wants to start an anti-litter campaign along with the community and public relations committee, with that I want to incorporate our new logo on our liter signs that hopefully we can get up and running.

Community Development- Mr. Johnson stated he was still getting a lot of positive feedback from the Christmas event we had and how that was a huge success and people were really pleased. Mayor Hodnett stated going forward we need to involve our citizens more, because the Memorial Celebration, the stew and now the Christmas was all a big success.



Finance: Mr. Poindexter stated he wants to say thank you again to everyone. He stated that 5 years ago tonight he gave a state of the town because it was a semicentennial year and he thinks about it again, 55 years from tonight was the first council meeting, we have a lot of history behind us. He states he never knew Mr. Hurt because he passed away the year he was born, but he thinks Mr. Hurt would be very proud of the efforts, projects, and initiatives that are underway. Poindexter states beyond that, as far as finance he has begun the first stages of constructing the excel document for the next budget cycle that is being developed, it is going to take a while, but it is being worked on. The mayor and I have been working on the coding of expenditures and improving the quality going forward. He states he is happy to hear about the amount of money that we have in the reserved even if its not paying much interest currently, we are in a better general condition with those balances then we have been in some time. He states this is all he has for finance, but he does want to mention a comment to try and help us, he states he did get a call from a citizen about us posting information for the residents, he states it needs to be posted everywhere, paper, social media, and website, states the resident didn't see it posted on the website about garbage being picked up on a different date because of Christmas. He states some people only use website, or the paper, or the social media, he states hopefully this new phone system will reach everyone across the board. Mr. Merricks stated if we post it on the sign and put it on Prospect Road then everyone will see it. Mayor Hodnett stated Mr. Lovelace we talked about this I will let you answer that. Chief Lovelace stated he will own that, that the mayor did reach out to him about doing that, but he had an investigation going on at the time and it was important, he stated it isn't enough people to do everything he just didn't have time. Mr. Mitchell asked Gary if the new phone system is what his church used? Mayor Hodnett stated yes. Mr. Mitchell asked so everyone will get the updates that the Town has if they sign up? Mayor Hodnett stated yes if they get us their phone number, therefore it is so important for everyone to fill it out and get it back to us. He states we are making every effort to get it out there. Mrs. Barksdale-Hill stated we use the text messaging at the Tree of Life, and it works wonderful. Mr. Poindexter stated he hopes this helps. Mr. Poindexter the last thing he has, we have canvased all the forms, with the new logo and contact information, hopefully these will be clear and user friendly for all the clientele and in the house. Mr. Poindexter stated far as he knows we have updated all of them and if there happens to be anymore, we will look at them.

A motion was made to adopt these as our official new forms and maintain them on the website for anyone to access them at all times.

Motion: Mr. Poindexter

Second: Mrs. Barksdale-Hill

Passage: Unanimous

Public Works & Planning/Zoning Commission: Mr. Adams states a couple weeks ago it was discussed about the number on the houses and he talked with Chris Slim, he is the Public safety guy in the county, and what he told me was and that the county provides all the numbers for the Town of Hurt and that we can move forward with putting house numbers on the house, that we do not have to worry about sequence of any kind that we can just put the numbers of the address of the house, if it states 612, then put 612. Mayor Hodnett asked do we need to coordinate them with the county to make sure our numbers match theirs? Mr. Adams stated according to Chris, all the addresses in this town was done by the county and not the Town. Mr. Boggs states he thinks the 911 has most of the numbers. Mayor Hodnett stated so a house that doesn't have a number we can confirm with the county what that

number is? Mr. Boggs stated 911 can dispatch those numbers out anywhere in the county. Mayor Hodnett stated we just need to find out how many houses don't have numbers on it, and we get those numbers and send the letters to the residents requesting that they put those numbers up. Mr. Adams stated that the homeowner can purchase their own numbers, mayor Hodnett stated yea but we can send them what the number is and tell them that it needs to be up. Mr. Poindexter stated it is a requirement, mayor Hodnett stated we can send them a letter informing them that it a county requirement for their safety and if they don't put it up then we can adopt enforcement. Mr. Adams asked well what other propose is it to have the number on the house other than safety? Mr. Boggs stated for the Postal Service and UPS. Mr. Adams states I still think it is a good idea to have it, Mayor Hodnett stated well it is a requirement. Mr. Johnson asked how big do they have to be? Mayor responded 3 inches tall. Mrs. Barksdale-Hill stated according to the ordinances they must be 3 inches tall.

**Report from Mayor Hodnett**

Mayor Hodnett reported thank you to everyone for coming, we got a lot done. We have a couple of things in the community that we got to work on, like the goats, also a trailer was put on a lot that has increased the footprint that we need to work on. He states I appreciate all that everyone does.

Meeting adjourned at 9:05pm.

Kelsie Sligh-Clerk

Gary Hodnett-Mayor