



***GATE CITY TOWN COUNCIL MEETING AGENDA
MAY 8, 2012
156 E. JACKSON ST.
6:00 PM***

PUBLIC HEARING:

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION WATER BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$1,265,387 OF THE TOWN OF GATE CITY, VIRGINIA AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

I. Mayor, Mark Jenkins called Public Hearing to order at 6:00 P.M.

II. ROLL CALL: Town Clerk, Kathy Riley

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

Others present: Town Attorney, M. Brooks, Town Manager, J. Keller

III. NEW BUSINESS

- **HEARING – RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION WATER BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$1,265,387 OF THE TOWN OF GATE CITY, VIRGINIA AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF**
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IV. PUBLIC COMMENT

Close Public Comment at 6:03 P.M.

Mayor Jenkins – This proposal is to borrow the money necessary to do the improvements for the financial portions of the cost of the projects.

Vice Mayor, R. Cassell – This is all three, correct? Phas 1-2-3.

Andy Miles-That looks correct.

Mayor Jenkins – For that amount, it would be. Any Council comment?

V. Public Hearing closes at 6:03 P.M.

Mayor – Mark Jenkins

Town Clerk – Kathy Riley

PUBLIC HEARING:

ORDINANCE 05-08-2012 FOR THE TOWN OF GATE CITY TO AMEND CHAPTER 6, OF THE TOWN OF GATE CITY ORDINANCES, TO INCLUDE SECTION 6.5, COLLECTION OF FEES RELATING TO PAYMENT OF ADMINISTRATIVE FEES, ATTORNEY’S FEES AND COLLECTION OF AGENCY’S FEES IMPOSED UPON PERSONS WITH DELINQUENT TAXES OR OTHER DELINQUENT CHARGES PURSUANT TO VIRGINIA CODE SECTION 58.1-3958.

VI. Mayor, Mark Jenkins called Public Hearing to order at 6:04 P.M.

VII. ROLL CALL: Town Clerk, Kathy Riley

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

Others present: Town Attorney, M. Brooks, Town Manager, J. Keller

VIII. NEW BUSINESS

- **ORDINANCE 05-08-2012 FOR THE TOWN OF GATE CITY TO AMEND CHAPTER 6, OF THE TOWN OF GATE CITY ORDINANCES, TO INCLUDE SECTION 6.5, COLLECTION OF FEES RELATING TO PAYMENT OF ADMINISTRATIVE FEES, ATTORNEY’S FEES AND COLLECTION OF AGENCY’S FEES IMPOSED UPON PERSONS WITH DELINQUENT TAXES OR OTHER DELINQUENT CHARGES PURSUANT TO VIRGINIA CODE SECTION 58.1-3958.**

Mayor Jenkins – This ordinance gives the town proper path to collect past due taxes and other bills that are owed to the town and having a collection agency to do that at no cost to the town, but actually a cost to those that have a debt.

Town Attorney, M. Brooks – It was my recommendation to have it in a form of an ordinance so there would be no confusion about that in anyway. There is no contract with any specific firm to do that, but I do think it is in the best interest of the town. Is there any Council comment?

IX. PUBLIC COMMENT

Close Public Comment at 6:06 P.M.

X. Public Hearing closes at 6:06 P.M.

I. COUNCIL MEETING CALL TO ORDER 6:07 P.M. Mayor Jenkins

II. ROLL CALL – Town Clerk Kathy Riley

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

Others Present: Town Attorney, M. Brooks, Town Manager, J. Keller, Andy Miles, Benny Reed, Debbie Kindle, Jane and Ralph Crass, Chuck Newton, Arletha Newton

III. INVOCATION - Father Rollie Hautz

IV. PLEDGE OF ALLEGIANCE Sergeant-at-Arms, Chuck Newton

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

VI. APPROVAL OF AGENDA

Motion made to approve the agenda.

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

VOTE: Yeas, 3
Nays, 0
Absent, 2-W.W. Ross, Jr., T. Herron
Abstain, 0

VII. COMMUNICATIONS - None

VIII. APPROVAL OF MINUTES

Motion made for approval of Town Council meeting minutes from April 13, 2012 with the correction to page 34 to reflect \$3.68 versus \$368.00 and \$7.50 versus \$750.00

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

VOTE: Yeas, 3
Nays, 0
Absent, 2-W.W. Ross, Jr., T. Herron
Abstain, 0

IX. APPROVAL OF PAYMENTS

Motion made for approval for payment of bills for April, 2012

Motion by: Vice Mayor, R. Cassell 2nd by: Council Member, R. Lane

VOTE: Yeas, 3
Nays, 0
Absent, 2-W.W. Ross, Jr., T. Herron
Abstain, 0

X. REPORTS

A. Engineer's Status Report –

Andy Miles – There is a shorter status report for this month. The two water projects that are under review right now is the water plant and one of the Moccasin Hills were submitted and waiting for the Health Department. The one at Moccasins Hills we've addressed and sent back. The water plant, I put will be done next week, it could be this Friday. Those, hopefully, are on track to follow behind this water project. The work has begun on either end, with notice to proceed on April 23rd. There is 165 calendar days, October 5, 2012, with the contractor trying to beat that by 30 days, with an internal goal shave off \$100,000 from the bill if not more. They just started at the Vocational School with a tap made to the first driveway. At the intersection of Kane and Jackson, they made the wet tap, without shutting the water off. Stoney has been out there regularly with our inspector watching them closely. No problems, some rock which is no shock. The next progress meeting is June 7, 2012 at 9:00 a.m. Juanita Wells, from VDOT, has been down a few times and is satisfied so far. We're on day 7 or 8 with about 160 more to go. Any questions?

Mayor Jenkins – Moving along well.

Andy Miles – School is out in a couple weeks, so hopefully the traffic won't be so bad.

Vice Mayor, R. Cassell – Will they be saving the paving to last of what they dug up?

Andy Miles – Yes, we're going to try to. We're trying to use some of the smaller, finer material, where you could run over it where like gravel it'll kick up. It's pretty compacted. Juanita was okay with that, we'll just keep an eye on that. If it looks like it's going to rut-out due to rain storms, we'll see about putting a temporary patch on it. The permanent paving will be at the end of the job.

Vice Mayor, R. Cassell – There is one sharp corner right as you go around the curve. If you hit it right, you can bust a tire.

Andy Miles – He's made a note of that and he's going to try to get that. They have been working Monday through Thursdays, longer hours, so they get Friday, Saturday and Sunday off. When I'm on my way out, I'll remind Terry about that, so he's aware of that. Does anybody have any other questions.

Vice Mayor, R. Cassell – You haven't done the core drilling, have you?

Andy Miles – No, when the construction work is done. When they take the water basin down, they will do the core sampling at that time.

Mayor Jenkins – Andy, thank you for keeping all this stuff moving.

Town Manager, J. Keller – I've been out there every day since they started, they're doing pretty good work. I stressed that I was trusting their inspector with all the installation and compaction, that I wanted all the pavement to be done well when it is all done. No settling, I wanted it to be smooth.

B. Treasurer's Report – No comments/questions

B. Codification Committee/Property Maintenance –

Town Manager, J. Keller – Amy filed six new claims yesterday.

Town Attorney, M. Brooks – Yes, I haven't had chance to look at it other than to see what it was. I have several that need to be set for court. I was letting their 21 days answer period go. We have a couple that has made some progress. One of the owners just sold the property.

Town Manager, J. Keller – Who's that?

Town Attorney, M. Brooks – Johnson, James Johnson, but they've been working on it before. There is a new owner and they, apparently, actively working on it now. I have no choice but to dismiss that one, since the owners were the ones we took action against.

Town Manager, J. Keller – What about the Grogan Street property? I get complaints about that at least once a week.

Town Attorney, M. Brooks – I have it to file.

Town Manager, J. Keller – Okay, I tell them that, court action has been taken against the, but it takes time to see something done.

Town Attorney, M. Brooks – It does.

Mayor Jenkins – Is that the one we've had multiple clean ups and then

Town Manager, J. Keller – Down there off of Park Street, yes.

Town Attorney, M. Brooks – I don't know if Grogan Street is one of them, but sometimes we don't have good addresses, the land owner, there's reasons why it takes some time.

Town Manager, J. Keller – That's the one where he hired Ronnie Montgomery and he said we didn't

Town Attorney, M. Brooks – Yes, give proper service

Town Manger, J. Keller – Yes.

Mayor Jenkins – I spoke to Rex and he said he sold that property on Park Street and somebody else had it now.

Town Attorney, M. Brooks – There is a lease-purchase agreement that is on file in the Clerk's Office. It's not been transferred yet, that I know of.

Vice Mayor, R. Cassell – I got a phone call today, they couldn't be here, and she asked me if I would discuss this. I wasn't here initially when all this was done, once they are given a notice, how long do they have, if it is a yard that needs mowing, is it 30 days?

Town Attorney, M. Brooks – It depends on the situation. They are either given 30 or 60 days depending on the notice and if they working with them, I know Robert Mullins are giving them extensions to get things down. It just depends on what the nature, if it's a health hazard, obviously corrective action needs to be taken quicker.

Mayor Jenkins – Yard maintenance is 16 days, though. We have an ordinance 16 days and the town can actually

Vice Mayor, R. Cassell – She was questioning that and she was under the impression it was 60 days and this same gentleman. Two things she wanted, asked if we would look at the time limit. The same gentleman, I had to get Amy on it, because of complaints last year. It is an on-going thing year after year, will not mow the yard until he is forced to. She was under the impression it was 60 days. She said the time I called out there and gets complaints if he has 60 days it's only mowed three times a year. She said the back yard is so bad she is afraid for her grand kids because of snakes. It has actually turned into trees. The other thing she asked is if there is any consideration of these people that are repeat once you have been served is there any way we can put wording so you can be liable from that time out or are we going to have to keep serving them

every time. This is, I can vouch, is an every year thing. It's been that way since they've lived there.

Town Attorney, M. Brooks – You can certainly amend the ordinance if you all so desire to do that to reflect any of those things. I don't know the specifics on the town ordinance, Mark probably knows better than I do.

Mayor Jenkins – After the grass reaches a foot height, we can serve notice and they have 16 days to clean it up or we can clean it up and charge them.

Vice Mayor, R. Cassell – Somebody complains, it is still the 16 days or is it

Mayor Jenkins – We have to, from what I've read, 16 days that we have to give them that long to clean it up.

Vice Mayor, R. Cassell – Somebody had told her 60

Town Clerk, K. Riley – She had talked to me and I told her I wasn't quite sure. I looked it up and it is 15 days from the day they receive notification. They send it certified mail, if the person doesn't pick it up, they have 15 days to pick up the certified mail or it will be returned back to sender. It could be a period of almost 30 days if they wait the 15 days to pick up the certified letter.

Town Attorney, M. Brooks – On a number of occasions we have never got a court action, the town crew has just gone and done the work and they billed them for it.

Vice Mayor, R. Cassell – I don't know if it's anything that is feasible to, it's almost like a contract, we're going to have to keep telling them they will be liable

Town Attorney, M. Brooks – If you want to reflect, as long as it comes in compliance with the code that Robert Mullins has, the town can change the ordinance to whatever you all would like it to reflect, if that is something you want to do.

Vice Mayor, R. Cassell – The problem with this, the mother-in-law owns the property, so it goes to her. It is one of those cases it has been that way for 10+ years until he is served.

Town Manager, J. Keller – Is it Campbell Street?

Vice Mayor, R. Cassell – Yes.

Town Manager, J. Keller – They were served yesterday.

Vice Mayor, R. Cassell – I get complaints every year, because I know it's on my end of town, it's constant.

Council Member, F. Perry – I had someone put me in a car and show it to me on Monday.

Vice Mayor, R. Cassell – Now, she is concerned there's a freezer out front that his kids will get into or somebody else's kids will get into it and can't get out. I told her I would discuss it. A lot of them clean up and that's the last time you have to tell them, but more times than not, it's on going. You tell them it's time, you give them however it takes to grows again or they clutter up and you're there again. Do you see anything in putting something in there that you are liable once you are noticed?

Town Attorney, M. Brooks – You can put in there that it is a, you can do an ordinance that it's a fineable offense. There's all kinds of things that can be done. You can look at the ordinance and put some more teeth in it. If that is what you would like to do.

Vice Mayor, R. Cassell – Something you all want to do with the Codification Committee (Speaking to Council Member, F. Perry), you're on it, for now? I have not sit down and read them and I couldn't tell them, specifically. I wasn't sure if it all came from the Code of VA or

Town Attorney, M. Brooks – Some of the like building code there is certain things that are required and a lot of it, some of it is just driven by our ordinance.

Council Member, F. Perry – We can sharpen the teeth as much as we want to.

Town Attorney, M. Brooks – Absolutely.

Council Member, F. Perry – Is what she is saying.

Vice Mayor, R. Cassell – I wasn't aware there was anything for repeat offenders, if we're going to have to keep. That's going to put more on Amy, whoever will have to keep going back and
Council Member, F. Perry – Well, that's not going to carry, you can't. Can we make it to carry over from year to year?

Town Attorney, M. Brooks – You can do a first offense and second and subsequent if the fines, if you want to put a fine in it and then you can do the second offense would be double and. For example we had it, it's in a subdivision ordinance about dog houses. We have a case that was, actually, in District Court that Officer Taylor brought. The Judge gave him, it's up to a \$1,000 fine and he had to pay some of that fine. Some of the fine was suspended on the condition that he get it in compliance. We can do those things and Judge Lewis will enforce it. We just have to get it the way you all want it.

Council Member, F. Perry – We'll try to take a look at it.

Vice Mayor, R. Cassell – It's a shame you have to keep prodding people when we're trying to clean up property and some people are complying and clean it up and leave it and then you have those who just constantly stay after them. I've lived in those conditions and it's just not pleasant.

D. Police Department Report –

Chief Birchfield - goes over report:

GATE CITY POLICE ACTIVITY SUMMARY

April, 2012

	March	April	Year To Date
Calls for Service	349	412	1359
Arrest	10	20	35
Summons	52	73	184
Crime Reports	17	39	79
Accident Reports	10	7	25
DUI Arrests	1	5	9

Significant Activity for April:

- **Officer Gillenwater is performing well in the academy.**
- **Officer Fink is attending Academy and doing well.**
- **Officers continue to provide extra patrol in various areas of town as requested.**
- **Our department continues to work in a safe manner**
- **Officers continued with Radar Enforcement throughout town in an effort to slow down traffic and monitoring both traffic lights.**
- **Providing extra patrol in Food Lion Parking Lot due to catalytic convertors being stolen from vehicles. That seems to have stopped for the time being.**
- **Utilizing Speed spy almost daily.**
- **Officer Templeton attended the Combating Domestic Terrorism Classes**
- **Chief attended the Diversity and Ethics Training at the academy which is mandatory through the Commonwealth.**
- **Chief attended the DUI Conference in Virginia Beach which we have to do to get grant money from the state.**

- **The department collected 14 pounds of drugs to be disposed of thru the DEA-NTBI on Saturday, April 28th. The container was completely full, so it was a success.**
Town Manager, J. Keller – Was that prescription only?
Chief Birchfield – It was. We would take other medication, but mostly received was prescription medication.
- **Bryne Justice Grant has been submitted which is approximately \$3,500.**
For May
- **Officer Templeton and Taylor plans to attend General Instructor School**
- **Chief plans to attend the Diversity and Ethics Training at the academy on April 18.**
- **Officer Taylor plans to attend the Criminal Investigations School. Any of these trainings that we send Officers to the academy is at no cost to the town.**
- **Officer John Gillenwater and Fink will be graduating from the academy at 1:00 on May 17 and I will be attending that graduation.**

Chief Birchfield – The part-time position where Officer White stepped back to Auxiliary where he was working 8 hours a week, most times on Saturday night from 3 to 11 which limited us using him, just when he was available. Since Officer Fink went from Auxiliary to part-time, it has been a great success. We are able to work him different hours and days of the week that we need him.

A lot of the citations and DUI arrests are due to that. It has been a huge success. Questions?

Mayor Jenkins – On the elevated crime report, is there anything in particular or just random?

Chief Birchfield – It is just random.

Mayor Jenkins – Okay.

Chief Birchfield – We don't have a rash of anything going on. It's getting warmer.

Mayor Jenkins – Thank you, Kim.

E. Council Reports –

Council Member, R. Lane – The road side park is looking good. I know that Stoney and crew got down there and bush hogged it and got the silk completely lined up and they hope to start Friday. I think?

Town Manager, J. Keller – I think that is what Rick Begley said. They are going to cut most of the trees at the rear of the property down and leave some of the trees in the middle and the front that are standing by themselves for right now and not getting in the way of what we are planning to do. It would be nice to have a few trees on the lot. But, yes, it is looking pretty good.

Council Member, R. Lane – The trees look good since they have some contrast in there now.

Vice Mayor, R. Cassell – It'll be a really nice place when it gets leveled out and grass put on it.

Town Attorney, M. Brooks – We do have the permit from VDOT, right?

Town Manager, J. Keller – Absolutely.

Town Attorney, M. Brooks – I didn't doubt you, Jeremy.

Vice Mayor, R. Cassell – That's not the first time he's been asked that question.

Mayor Jenkins – Asks other Council Members if they have any comments with all replying no.

F. Economic Development Committee –

Council Member, F. Perry – Did we ever come up with who is active on that Committee?

Mayor Jenkins – We have one deceased and one who is ill. I don't even know if we have a full committee now.

Council Member, F. Perry – Well, I have a lady who has spoke up and said she would be very interested in serving on it. Do we have applications for that on website?

Town Attorney, M. Brooks – Kathy is shaking her head.

Council Member, F. Perry – Okay. I told her I thought we did.

Mayor Jenkins – Yes, we probably do need to get that committee moving again.

Council Member, F. Perry – Absolutely.

G. Facade Committee –

Mayor Jenkins – We did not meet last night. That is basically winding down. The Starnes Building/Little Store is leveled now and in the final clean up of the slab and of the building itself. The last few contracts are being awarded, so I know that Chris' building, the windows have been approved and ordered.

Town Attorney, M. Brooks – What's our new deadline, Mark on that?

Mayor Jenkins – The last day of June. I believe, isn't it?

Town Manager, J. Keller – Yes, I think that's it.

Town Attorney, M. Brooks – It's been extended. It was April.

Council Member, F. Perry – Is it too late to apply? I had somebody who asked me.

Mayor Jenkins – No, I think it's almost done. We almost depleted the funds.

Town Manager, J. Keller – I can ask Rob.

Council Member, F. Perry – Okay. Mark Chapman is ready to with his building. He talked to me yesterday.

Mayor Jenkins – He's already applied. He should have had available funding, he just turned it down once.

Council Member, F. Perry – He's changed his tune.

Mayor Jenkins – Okay. He, Rob has everything worked up for him, if there's money.

Council Member, F. Perry – I told him I would let him know.

Mayor Jenkins – If there is money left and I think there should be a little.

Council member, F. Perry – Okay.

H. Historical Committee – Did not meet.

I. Manager-

Town Manager, J. Keller – I'll hit the highlights and answer any questions. First with the Water Department. Loretta attended an award service in Roanoke, VA, Friday and we were only one of three municipalities in the whole state to receive a Gold Level Award for our water. That puts us in the top three of the whole state.

Town Attorney, M. Brooks – Excellent.

Town Manager, J. Keller – I looked at the department and I decided it would be in our best interest to offer Daryl Stanley, who came over from the Public Work's crew, to offer to pay for his classes to get his certification for Water Plant Operator. Right now they are operating with two Classified Water Operators. Daryl has to have someone with him at all times. The classes aren't that much and he can achieve a Class 4 within 6 months from when he started there, so very soon he takes the classes. If not, he has to be there a minimum of a year to get his Class 4, but he still can't operate the water plant on his own because it's a Class 2 plant. He agreed. I told him the proper avenue we wanted to do is to first and foremost is if he can get a PELL Grant or any kind of financial aid, to seek that route first. If he is not eligible for financial aid, if he has to take out loans the town will pay for those classes instead of him taking out a loan, with the clause that he actually passes the classes. I attended the *Board of Supervisors* meeting last week and the only issue there was from Danny Smith. Danny sold a piece of property in February, 2001, but the

deed was not recorded until the last month and he had been getting tax tickets from the County. His main purpose for attending the meeting was to nudge them to notify the Legislator to pass an ordinance or law requiring purchasers to record their deeds within a certain amount of time. His name was in the paper and he was upset because he felt his name was being slandered as a delinquent tax payer and wanted the County to address it with the Legislators. He came to town the next day and we got it all worked out. **Grogan Park**, Saturday morning I had about six or seven people lined up to come and just pick in the park, but I got there around 9:45 a.m. and helped Brian clean up and there wasn't a soul in the park with it raining. We'll try again in about a week and half. **Gateway Plaza**, it looks like the potholes have been patched and we didn't do it. I guess Humphries Enterprise has taken responsibility for ownership of that road, which they thought it was a town road. **5-K Foot Race**, I actually talked to Haley today and told her to that I would like for her to give me some kind of design for the T-shirts, what kind of color schemes she would like it to be. We already received \$1,000 in sponsorship and I haven't even started to solicit for it yet. I think it's going to take off and do really well. If anyone wants to come and volunteer, we need volunteers for traffic control and stuff. It looks like the bike ride will go on and we already got a few people registered for it. **Dwight Pierson** came by last week with Rural Development and I did sign the grant application. There is no money there till September and he was told there would be no money for at least three years. We just got in line for whenever it does become available. Our **Festival** has been moved up two week to September 8th because Kingsport has just released their October Fest to be September 22nd our original scheduled date. Their website boasts that last year they had 12,000 people attend and I thought it in the best interest to not compete against that.

Mayor Jenkins – One other thing, we did meet with what used to be RADA, Angie Sproles, and Lenowisco about the project we're going to have to get some momentum within the community, but on the courthouse hill we're working on a home restoration grant in that area.

Town Manager, J. Keller – That's 30 homes listed on the proposed project.

Mayor Jenkins – They have already done the survey but we need spark plugs from the community and need to meet with some people up there and get a business team going.

Town Manager, J. Keller – I think Lenowisco has agreed to be the applicant and the administrator.

Mayor Jenkins – RADA is going to manage the work. That is underway and we met a couple weeks ago to get that going. Hopefully, that will fall in pretty quickly.

Council Member, F. Perry – You know when Jeremy and I attended that Leadership Conference on Friday, there was a guy from Home Depot saying that Home Depot employees go out and do work and Home Depot furnishes the materials. That may be something we might need to

Mayor Jenkins – partner with them.

Town Manager, J. Keller – Wonder if they are willing to cross state boundaries.

Council Member, F. Perry – Well, we don't mind crossing the state boundaries to do business with them.

Town Attorney, M. Brooks – You know Kohl's also does that community stuff. I know they will even send employees to help.

Council Member, F. Perry – That's what Home Depot

Town Attorney, M. Brooks – Kohl's is another one that will do things like that for free.

Mayor Jenkins – By the way, Jeremy, you've been doing a great job.

Town Manager, J. Keller – Thank you, I've been trying.

J. Park Committee –

Council Member, F. Perry – The Park Committee met and we didn't proceed with anything with the water park because Jeff wasn't here to report. He was going to do some finding of prices but Ray from the Civitan Club stressed the fact they were anxious to get on it and be ready for the summer. I was contacted last week by the President of the Little League and asked if I would come down to the park and look at, he wanted to show me where they were going to build that building. The tree that needed to come down and what they were going to do. While I was there, I learned that the main reason the wall was built at the Little League field was for safety reason. There were other reasons, but that was one of the #1. I did explain to them about the letter that was sent that it wasn't a complaint in any way, it was just we felt like that since the park belongs to the town that we needed to be aware of major constructions or changes that were going on down there and they agreed to that. I did learn there was a letter written and they didn't take action out of hand. Everything is okay with people at the park.

Mayor Jenkins – Okay.

Town Manager, J. Keller – I'll have one made. I got a call from Stoney today, Carl got that little storage building that sits beside the concession stand, he got that moved and we got an estimate to cut that tree down. I asked Stoney that I was going to rely on his opinion on this asking him if he wanted to cut it done or get an estimate. He got an estimate from Bays Tree Service, Bobby Bays, for \$125.00 to cut that whole big tree down.

Council Member, F. Perry – That's a big tree, I would say

Town Manager, J. Keller – Just do it.

Council Member, F. Perry – And he has the equipment to do it with. When I looked at that and they showed me I didn't think Stoney and the guys needed to do this or not, but that's a good price.

Town Manager, J. Keller – I told him to just do it. That was today about 4:00 p.m.

Council Member, F. Perry – They told me they were moving that building and they was going to do that before the tree was down.

Town Manager, J. Keller – They got it moved today.

Council Member, F. Perry – It looks good down there.

Town Manager, J. Keller – Brian does a good job cleaning that park on Saturday and Sunday mornings.

K. K. Planning Commission – Did not meet this month due to the elections.

L. Public Works –

Town Manager, J. Keller – I'll make a comment right quick, the Friday after last Council Meeting, it was Friday the 13th. I showed up there around 6:50 a.m. at the Public Works building and worked all day with them and man, did I sleep good that night. Those guys get after it, I'm telling you. They are A+ workers.

Mayor Jenkins – That means a lot coming from someone who doesn't lay around a whole lot and you don't. But, they've done a real good job with leech bedding and the rocks coming down, that's looking a lot better.

Town Manager, J. Keller – We even landscaped the signs that day, both signs out here.

Council Member, F. Perry – I noticed that. Are we doing the hanging pots again this year?

Mayor Jenkins – No, we can, but not from the vocational school. I didn't line that up.

Council Member, F. Perry – I thought that was an annual thing?

Mayor Jenkins – No, last year, we did the baskets and everything here. We have to let them know.

Council Member, F. Perry – I had several people ask me that.

Mayor Jenkins – The hanging baskets we had we have to let them know prior to Christmas, so they can start prepping. If that is something that we want to continue, we talking about the hanging baskets we will have to come up with a better watering system because it works the crew to death going out there and trying to get the water up, climbing up and down.

Council Member, F. Perry – What about those flags that we had, I had somebody ask about that too? We had flags that had spring?

Mayor Jenkins – Yes. I have no idea. They are probably down in the garage.

Town Manager, J. Keller – Probably.

Mayor Jenkins – The ones with the bird of paradise/blooms on them?

Council Member, F. Perry – Yes, and somebody suggested that we could look at buying some flags that had the Gate City logo, Welcome to Gate City, or something like that.

Mayor Jenkins – We looked, they're around \$60-\$70 a flag is what they run, but they last for years.

Council Member, F. Perry – Well, it was a merchant that asked about it and they did what I think is what you need to do is if you come up with an idea you be there to support it. They said they would be willing to buy one or contribute towards it.

Mayor Jenkins – There might be a potential that we talked about before letting the, having the Gate City logo but having the merchant logo on the flags that they purchase. A smaller, but still and giving them some advertising space for that. That may be some things we want to look at and the new Mayor may want to run with that.

M. Sanitation Authority –

Vice Mayor, R. Cassell - We do not meet until tomorrow night.

Mayor Jenkins – Are you attending their meetings and everything?

Council Member, F. Perry – I had a lady to make a suggestion to, she asked about the increase in the water bill and commented the Sanitation was 100% of that. She said where they lived before they had separate meters for water and sewer and wondered if we might look into that. Would that be something we have to take before the Sanitation Authority?

Mayor Jenkins – Probably. That would be

Town Attorney, M. Brooks – Expensive.

Mayor Jenkins – Yes, that would be an expense up front, quite a bit.

Council Member, F. Perry – Who would that expense be on, the individual, the town or the authority?

Vice Mayor, R. Cassell – Anything to do with Sanitation would come out of their budget.

Mayor Jenkins – Yes, which is actually the town or ultimately the town.

Vice Mayor, R. Cassell – How much does a water meter cost?

Town Manager, J. Keller – A couple 100 bucks.

Mayor Jenkins – Sewer would be a MAG meter would be about \$300-\$500 per.

Council Member, F. Perry – I sure there would be some individuals who would personally pay theirs, but then there would be some who wouldn't.

Mayor Jenkins – There may be some potential for some grant money for it. I mean we could follow up on that. We put in the one master meter. Is it working?

Vice Mayor, R. Cassell – Yes, Loretta is reading it weekly, is supposed to be.

Council Member, F. Perry – Then, I have a lady telling me that a house she owns her son lives in and sewer cannot go to it because of its location and he had been billed for so many years for that part of bill. I told him to take it to the Sanitation Authority. Is that the right thing to do?

Town Attorney, M. Brooks – Yes.

Town Manager, J. Keller – She came into Town Hall today and I told her to come tomorrow night. I told her it was a legitimate question and Judy and I don't have a good answer for you. We'll address it tomorrow night.

Town Attorney, M. Brooks – We've had a few of those since I've been here.

Mayor Jenkins – Yes, because some of them have been the option of the owner and some have been there really is no feasible way to hook them up without great expense.

Council Member, F. Perry – Well, he's one of those. They handle them in different ways.

Town Manager, J. Keller – Yes, because they'll need a pump

Council Member, F. Perry –Straight up hill.

N. Street Commission –

Vice Mayor, R. Cassell – The only couple things I have is Steve Buston to us, there won't be any permitting, but they gave us the blessing to add two parking spaces in front of the bakery and label them as loading zones with fifteen minutes or whatever we're going to do they'll be happy with it. I don't know what changed their mind, but they're going to install the turn lane at 71.

Council Member, F. Perry – I can tell you what changed their mind, they've sitting out there on the side of the road for about a week

Town Manager, J. Keller – Last week he said traffic counts didn't warrant it and I don't know what changed his mind on top of that. Maybe they saw that everybody uses it any way.

Council Member, F. Perry – It might not be the count, but the people who was doing that, yeah. I passed them many days with their little papers.

Vice Mayor, R. Cassell – He said they, how long it will take, but they are planning on converting that into a turn lane. We have made some progress in the last year or so.

Mayor Jenkins – Steve has been really good since he has gotten in here.

Vice Mayor, R. Cassell – I guess the next thing we need to do is either Wallace or I or Jeremy is to decide where, he did send down specifications for the handicap spaces and we are looking at probably two spaces per handicap spaces, I mean. Have you heard anything, did you propose about here for diagonal instead of

Town Manager, J. Keller – I have not.

Vice Mayor, R. Cassell – I didn't want to tell him if you had, but someone had asked me the other day if we heard anything back from them. I think he told us that day we rode with him that he didn't see a problem with it, did he? It seems like we mentioned that. Nobody understands why there's a second lane there to start with.

Council Member, F. Perry – Cause it's always been there.

Vice Mayor, R. Cassell – Do you want to take care of that?

Town Manager, J. Keller – Yes, I will.

Vice Mayor, R. Cassell – Cotton will be happy we didn't get to do his jet out but at least we'll be able to get a couple spaces back for him.

Council Member, F. Perry – Will there still be room to do that?

Town Manager, J. Keller – You would think so. I went there Saturday morning and stood out there in the road, six feet out from the sidewalk, and I still don't see why they were so against it that day.

Council Member, F. Perry – I don't know how they can be against it with as many as there are across the state of Virginia. What is the difference in Gate City and Alexandria or Richmond or somewhere else?

Vice Mayor, R. Cassell – I think we just need to keep at it because it's the first time we told them about it.

Council Member, F. Perry – I think what we need to do before we do anything is come up with our game plan. We just don't go up there and shoot out without telling them what our plan is and show them a draw out, whatever, and I think we need to have Allan and Vicki take care of that.

Vice Mayor, R. Cassell – The day Steve came down we went over there

Mayor Jenkins – Yes, met with them at the restaurant with the drawings.

Council Member, F. Perry – I have been on the internet and I have quite a bit of information on this, in the state of Virginia, so I see no reason that they could even turn us down.

Mayor Jenkins – Yes, they are common.

Vice Mayor, R. Cassell – I told Jeremy I think we need to stay with it. We were told no, adamantly, the first time on the King Ford property and I asked her to come down here to explain what we wanted to do. We were told we wanted a turn lane, we just kept it was a safety issue. I think we keep pursuing it, we can work something out. I agree, I think it's a good idea. It's not the first time we had been told no and we just kept at it until we convinced them.

Council Member, F. Perry – Well, squeaky wheel, gets the oil.

Vice Mayor, R. Cassell – I'd like to see us keep pursuing it. If you got proof somewhere else in the state, I'm like you, I don't see why

Council Member, F. Perry – I have pictures and locations.

Town Attorney, M. Brooks – Is there objection because it is right there at the intersection?

Vice Mayor, R. Cassell – Well, they were saying, no that wasn't so much the concern as people pulling out against it with traffic coming against it. I don't know why you couldn't put something kind of steel fencing around it or something.

Council Member, F. Perry – I don't think we'd want it without that. There would have to be something.

Vice Mayor, R. Cassell – We even proposed raising it on a platform and he didn't like that. You could be sitting out there on one of them now and somebody could jump the curb and run over you.

Council Member, F. Perry – I wanted to get bricks from the building to do it.

Town Attorney, M. Brooks – That would be pretty.

Vice Mayor, R. Cassell – If you want to pursue that some more, Jeremy. We have an up-coming Mayor that got doors in town, maybe she can work on that.

Mayor Jenkins – Thank you, Roger.

O. Safety Committee - No comments

P. Water Plant –

Town Manager, J. Keller – Like I said, we got that Gold Award, top three in the state for water quality. They're at a 28.9% water loss which is really good. I asked Loretta, where she thought that was coming from. She said she thought people was just using the water and is not getting charged for it. I know we've had a few instances, the past couple weeks, where their readings were reading zero usage for several months, couple years in a row and replaced the meter with a working meter and all of a sudden their bills shot up good. That number has been going down since we've been replacing some of those old meters.

Mayor Jenkins – The old meters have always fell bad on the town's part.

Town Manager, J. Keller – I'm sure there are some leaks and hopefully the main water project will replace some of that loss, but she thinks a lot of it is being used, it's just not being accounted for.

Vice Mayor, R. Cassell – Are you getting, when I was Chief of the Fire Department, they required us to turn in monthly usage out of the hydrant. They still doing that? You could ask that again, if they start, because on a working house fire in town, you can use 15 to 20,000 gallons before you know it, that could show up, significantly. I don't know if they are still going, we were actually going to hydrants and filling trucks to keep it from running through the meters. We'd take 2-3,000 gallons at a time.

Town Manager, J. Keller – I haven't seen one of those reports.

Mayor Jenkins – I haven't either. Not that I recall.

Vice Mayor, R. Cassell – I always bring it to Dwayne and they figure it in.

Mayor Jenkins – Loretta may be getting something like that, but I haven't seen.

Town Manager, J. Keller – I haven't either.

Mayor Jenkins – This is all I see.

Vice Mayor, R. Cassell – I doubt it. I doubt it very seriously. They might not be aware because there was a letter hanging down there at one time stating they had to do it.

Town Manager, J. Keller – I'll ask.

Vice Mayor, R. Cassell – It might not be a regular thing, but you know training. I mean we've had fire schools down there before and I've counted one weekend and used 16,000 gallons of water.

Town Manager, J. Keller – We got a new fire hydrant today down on Harry Frye Drive next to the Bateman's house. They installed it today and it looks pretty good, when I looked at it.

Mayor Jenkins – We need to see if our program will show deviations from normal on the water, especially if there is one that is throwing zeroes for several months.

Town Manager, J. Keller – Judy is the one that is catching that stuff. She's the one who knows that software pretty well.

Mayor Jenkins – We should be able to. Everybody needs to congratulate Loretta for doing such a good job down there.

Town Manager, J. Keller – I told her it helps me when people start complaining about the water rate hikes, I'm going to tell them, they are getting what they are paying for.

Town Attorney, M. Brooks – Have we got a new bill with the new rate reflected yet?

Town Manager, J. Keller – It will go out with the next billing cycle.

XI. PUBLIC COMMENT – Opens at 7:02 p.m.

Benny Reed – 167 Poplar Street. Discusses:

- Hopes the town continues with the change in the parking area from Kane to Tucker to diagonal is a good idea and will gain some parking places. Thinks it will answer safety issue too.
- Saw the Water Plant Award on Facebook. Suggests some kind of recognition in the paper for others to see and some kind of reinforcement for the Water Plant Operators. Suggests getting together and patting them on the back or take them a lunch, with a thank you for doing a good job.
- Property maintenance. The Fields property show case won of February 27 on Poplar Street. Asks what the next step will be. Town Attorney, M. Brooks informed him of language in the court order she was waiting on Robert Mullins. Once the court order is signed by the Judge we can take action. I don't have my notes in front of me, excuse me if

wrong, but that was one of those ordered to be demolished with a lien to be placed against the property. There was only one that was not set to be destroyed and explains the ratio to fix property. Mr. Reed discusses property between the print shop and the telephone company as not being listed on the property maintenance list. Vice Mayor, R. Cassell stated it was on the list at one time. Discussion held regarding the actual address of the property. Mayor Jenkins states they addressed the yard issues, not sure if they addressed the structure. Mr. Reed states condition of yard is terrible. Mayor Jenkins states there are issues and it needs to get back on the list. Town Attorney, M. Brooks states if it is not on the list, we'll get someone to take pictures and send to Robert Mullins for him to make the determination.

Mayor Jenkins closed the public comment session at 7:07 P.M. and opened the consent agenda session.

XII. UNFINISHED BUSINESS

Mike Williams and Jane Williams Crass – Water bill dispute

Jane Crass - Asks about decision?

Town Manager, J. Keller – Stoney did a bench test of 99>9% correct.

Ralph (No last name) – Asks what is a bench test?

Mayor Jenkins – Explains process of a bench test.

Jane Crass – Does not know where water when, if a leak, it fixed itself or neighbor got it.

Suggests when water is turned off at a home, surrounding property owners are notified.

Town Attorney, M. Brooks – States she would have to look into that, so long as names are not disclosed may be okay.

Mayor Jenkins – We're sorry but we have to assume, we know the meter is right, so we have to assume that it went into the house.

Jane Crass – Suggests provisions be made when something like that occurs for some assistance.

Town Attorney, M. Brooks – Suggests she check with her homeowner's insurance policy for possible theft rider.

Vice Mayor, R. Cassell – Asks if water is off now.

Jane Crass – Yes, whole house.

Vice Mayor, R. Cassell - Suggests that she leave it off.

Council Member, R. Lane – Suggests a locking device for an outside spigot.

Vice Mayor, R. Cassell – Discusses neighbor who is still living in home without water receiving visitors and cooking.

Mayor Jenkins – Requests Chief Birchfield get the address to be aware of the activity.

XIII. NEW BUSINESS

• DECISION ON THE RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION WATER BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$1,265,387 OF THE TOWN OF GATE CITY, VIRGINIA AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

Vice Mayor, R. Cassell – This is giving us that much if we don't use it.

Town Manager, J. Keller – This is refinancing. If we look on the original thing, it is refinancing of the water bonds from the water bonds of 1984, 1996, 2003 and 2006. We are only refinancing 1.265 million

and I think we are being forgiven on about 900,000. That is the refinancing in progress that we hired Spillman, Thomas & Battle for.

Mayor Jenkins – Okay.

Vice Mayor, R. Cassell – Do you know what the final interest rate was?

Town Attorney, M. Brooks – I don't think it would be determined until it is written out. I think 3%.

Town Manager, J. Keller – I think we are looking at around June 14th as a closing date on this.

Vice Mayor, R. Cassell – I think it was 3 ¼ the last time he came, it might have dropped below 3.

Motion made to accept the resolution of the general obligation water bonds.

Motion by: Council Member, R. Cassell 2nd by: Council Member, R. Lane

VOTE: Yeas,	3
Nays,	0
Absent,	2-W.W. Ross, Jr., T. Herron
Abstain,	0

- **DECISION ON ORDINANCE 05-08-2012 FOR THE TOWN OF GATE CITY TO AMEND CHAPTER 6, OF THE TOWN OF GATE CITY ORDINANCES, TO INCLUDE SECTION 6.5, COLLECTION OF FEES RELATING TO PAYMENT OF ADMINISTRATIVE FEES, ATTORNEY'S FEES AND COLLECTION OF AGENCY'S FEES IMPOSED UPON PERSONS WITH DELINQUENT TAXES OR OTHER DELINQUENT CHARGES.**

Town Manager, J. Keller – They will add this company will add 20% on top to the delinquent tax payer. We'll going to get our full amount, plus they will pay an extra 20% to the collection agency.

Town Attorney, M. Brooks – The town is out nothing and you don't have to pay me to do it.

Motion made to approve Ordinance 05-08-2012.

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

VOTE: Yeas,	3
Nays,	0
Absent,	2-W.W. Ross, Jr., T. Herron
Abstain,	0

- **CLARIFICATION ON CHARTER TIE-BREAKER FOR SELECTION OF ELECTED COUNCIL MEMBERS TO TWO OR FOUR YEAR TERMS**

Mayor Jenkins – This is where we had a tie vote and a decision will have to be made as to who will serve the two and who will serve the four year terms on this election on two positions.

Town Manager, J. Keller – I spoke to Mike Edwards today. I went to the Registrar's office today to drop off letter. He made the comment that he thought that if an agreement could be made between yourself and Mr. Ross, of who would take which term that you wouldn't have to go through the procedure of drawing a name out of an envelope.

Town Attorney, M. Brooks – I disagree with that.

Town Manager, J. Keller – That is what I told him. I said that Michele disagreed with that and that you didn't elaborate to me and I would ask her tonight.

Town Attorney, M. Brooks – The code section that governs this is 24.2-674 and that is any tie breaker in an election.

Vice Mayor, R. Cassell – But we're not deciding seats. Neither one of us is going home, we're deciding terms.

Council Member, F. Perry – Yes, it is deciding a seat, too.

Town Attorney, M. Brooks – It is because one will be a four year term and one will be a two year term and so it really needs to be done correctly. I think this is the mechanism that has been set up by the Legislator and I think that needs to be followed.

Town Manager, J. Keller – I submitted a letter asking the Electoral Board to select a date, time and venue and to let us know and we would have yourself and Mr. Ross there and the Electoral Board, a third impartial party would make the decision.

Town Attorney, M. Brooks – It is literally drawn out of a hat.

Town Manager, J. Keller – It is based on the opinion Mike Edwards got from the Virginia Board of Elections.

Council Member, F. Perry - They had the same thing in Wise. It wasn't for it was for who would be on and who was off, but it was for a seat. That is the way I read it, too.

Town Attorney, M. Brooks – And I not only did some legal research on my own, we have a LGA has a list search for attorneys and I kind of put it out there that this is the situation we have am I wrong, this is our interpretation and there was no one who said this is the way they've done it in similar situations. I think that is the way it needs to be done.

Vice Mayor, R. Cassell – I asked the other day about contesting it. I don't understand how unless somebody looked at the figures wrong we went from 173 to 193 to a tie when it was called out there that night. And then picked up five more votes when there was only two absentees and nobody can explain that and I've been assured that it has been gone over and gone over. Everybody I've talked to wrote the same thing I did that night. I had 193 and he had 173 when we left here. And by the time the night was out, they were told at the office it was a tie and even if it had been a mistake somebody thought the seven the nine was a seven, where did the other five votes come from? Nobody can tell me that. When there was three absentees and Randy picked hers back up because she didn't think she was going to be here and she voted absentee, she sent hers back, so it left two. That is what I was told. Where'd the other five votes come from? And everybody heard the same thing I did 193 and 173. I just do not understand.

Town Attorney, M. Brooks – Have they been certified now?

Vice Mayor, R. Cassell – I was told they were certified the next day.

Town Attorney, M. Brooks – That's what I thought.

Council Member, F. Perry – I thought it was 198 to what?

Vice Mayor, R. Cassell – I got 193 and 173.

Council Member, F. Perry – I had 198 and 193 I mean 173.

Vice Mayor, R. Cassell – But there's a 20, I don't know where that 20 vote – did you (looking at D. Kindle in the audience) write them down?

Debbie Kindle – I didn't write down.

Town Attorney, M. Brooks – Was that including the absentees?

Council Member, F. Perry – Yes.

Vice Mayor, R. Cassell – They had them laying on the table that night.

Council Member, F. Perry – That included the absentees, they counted them that night, Mike said.

Town Attorney, M. Brooks – Okay

Vice Mayor, R. Cassell – I thought maybe I just wrote them down wrong when she said she heard a twenty point difference. When we left here, we thought everything was settled.

Council Member, F. Perry – But he showed me the tapes, did he show you the tapes?

Vice Mayor, R. Cassell – No.

Council Member, F. Perry – He showed me the tapes.

Vice Mayor, R. Cassell – Every time I've been out there he's been, it's been later in the evening, it's been Tammy there.

Council Member, F. Perry – Because I questioned it too, but Mike showed me the tapes and I said, "This is what they said" and he said maybe they just looked at the figures wrong or just mis-said the figures because he said this is what was on the machine.

Vice Mayor, R. Cassell – So, you saw 198 on the tape?

Council Member, F. Perry – I did see the, yes I did see the tapes.

Town Attorney, M. Brooks – Well, this is the mechanism that I believe that the VA Code provides and it says it is the way it should be done. And they told Jeremy, we could do it ourselves, but he and I talked about that and I don't think that is a good idea. I think the Electoral Board needs to handle that.

Council Member, F. Perry – Right.

Town Attorney, M. Brooks – Let them do their job

Mayor Jenkins – We can draw the names ourselves?

Town Attorney, M. Brooks – That’s what Mike told Jeremy, but that’s not what the statute

Town Manager, J. Keller – That’s not what the statute calls for the Electoral Board.

Town Attorney, M. Brooks – Yes, exactly.

Mayor Jenkins – I thought we have no power over a local election.

Town Attorney, M. Brooks – It would be against my advice for it to be done. The Electoral Board needs to handle it and we want to make sure it is done correctly.

Town Manager, J. Keller – It should be about two weeks at most from tonight to get it done.

Vice Mayor, R. Cassell – I don’t like it, but I guess if you say we got to do it, we got to do it.

Town Attorney, M. Brooks – I believe that’s what the law says.

Vice Mayor, R. Cassell – I think it should go to the senior person, personally. Whether it be me or whether it have been another senior person, especially, when you got somebody that wasn’t even going to finish getting their signatures and was forced into being put on the ballots to start with and somebody that worked for days getting theirs. That’s my fourth term and somebody else’s second term.

Town Attorney, M. Brooks - I can only give you the advise that I believe is what the law says and I think that is the mechanism that needs to be done. I could be wrong, but I had 100 attorneys look at it besides myself, as well, and I think that’s accurate.

Council Member, F. Perry – Well, I don’t see that it is up to us, period, in any way.

Town Attorney, M. Brooks – It’s non-negotiable. It says the Electoral Board shall. I have the Statute I don’t know if you’ve seen the Statute.

Council Member, F. Perry – I did.

Mayor Jenkins – I mean we pay them to conduct the election, it’s their

Council Member, F. Perry – I got on the internet the next night because of the article in the paper about the Wise.

Town Attorney, M. Brooks – It’s 24.2-674, if any of you are interested and have nothing else to do that you want to read that Statute. But, I can give you all, any of you, a copy if you would like to see it.

Jeremy is already taking care of what needs to be done. We’re just asking the Electoral Board to fulfill their duty.

XIV. PUBLIC COMMENT – NEW BUSINESS

Mayor Jenkins closed the public comment session for new business at 7:28 P.M. and opened the consent agenda session.

Debbie Kindle – Discusses the election the numbers and the tie. States she looked up Codes regarding timeframe to file a dispute within ten days of election. States Council needs to come up with a decision in case one wants to file for a recount.

Mayor Jenkins – States that would be an individual decision, it can’t be a Council decision.

Debbie Kindle – States Council needs to make a decision if drawing straws so they have

Vice Mayor, R. Cassell – Says in code she has we have a right to contest, I think even after this is done, don’t you?

Mayor Jenkins – The ten days is pretty solid. On mine they said if I had waited it was done. You can within 3%, with a tie it’s well within 3%.

Vice Mayor, R. Cassell – Well sent me the email that has it.

Council Member, F. Cassell – You got that number, you can go on the internet and read it word for word. The Virginia Code is on internet.

Vice Mayor, R. Cassell – What is it?

Town Attorney, M. Brooks – 24.2-674. There’s a whole section, 24.2 is just about Electoral Election.

Vice Mayor, R. Cassell – Well, I just, I can see if it was just a vote or two, but 20 difference and then all of a sudden. I just don't understand, like you say, maybe they jotted it on a piece of paper and came out and read it wrong.

Town Attorney, M. Brooks – I have no idea.

Vice Mayor, R. Cassell –What does a contest cost, Mark? How does it is it pretty expensive?

Mayor Jenkins – Not unless you have to hire an attorney. You can file a form and within the guidelines.

Vice Mayor, R. Cassell – The way Tammy talked it would cost the town money and I don't want to do that. I just like somebody to explain to me how

Mayor Jenkins – My whole mess didn't cost the town a penny.

Council Member, F. Perry – I stated to say, why would it the town?

Mayor Jenkins – It cost me about \$20,000, it didn't cost the town a penny.

Vice Mayor, R. Cassell – I just can't get this math to come out unless I wrote something down wrong that night.

Town Attorney, M. Brooks – I'm not saying whether there is or isn't and you obviously have the right to do that. But, we made that request pending because we have to do that.

Debbie Kindle – The only numbers that changed that night were Rogers' and Wallaces'm which is so strange and it ended up being a tie.

Vice Mayor, R. Cassell – Especially at 20, the only thing I can figure is somebody didn't make the nine and

Council Member, F. Perry – Seven, didn't close it or something.

Vice Mayor, R. Cassell – And the lady who read it off didn't have her glasses on and I know she wears glasses sometimes, so.

Council Member, F. Perry – A lot of people make sevens like that and if it was made, I don't know.

Mayor Jenkins – I think the Mayor and Council in the next election should request that they sit in on the vote count. They used to do that and it is supposed to be done that way where you actually are in the room when they are counting the final count.

Vice Mayor, R. Cassell – We were always told we couldn't see absentees down through the years and you can physically request to see them, can't touch them, but you can see them.

Mayor Jenkins – You can see them.

Council Member, F. Perry – Wonder, they wouldn't even tell us the count, remember that?

Mayor Jenkins – I know it. But, you are really supposed to be able to be in the room. Only the officials that are on the ballot.

Vice Mayor, R. Cassell – I believe it further says we can be in here while the elections is going on, so long as we don't campaign. To see that it's done. But, I've already made one mad because I complained the other day, she don't even speak to me.

Mayor Jenkins – Any more Public Comment? Thank you, Debbie.

XV. CLOSED SESSION

Mayor Jenkins opened the closed session at 7:28 P.M.

Motion made for Council to enter into closed session to discuss legal and personnel issues.

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

VOTE:	Yeas,	3
	Nays,	0
	Absent,	2-W.W. Ross, Jr., T. Herron
	Abstain,	0

XVI. RETURN FROM CLOSED SESSION

Council returned from closed session at 8:06 P.M.

Motion made for Council to return from closed session.

Motion by: Council Member, R. Lane 2nd by: Vice Mayor, R. Cassell

VOTE:	Yeas,	3
	Nays,	0
	Absent,	2-W.W. Ross, Jr., T. Herron
	Abstain,	0

CERTIFICATION OF CLOSED MEETING

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

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

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

VOTE:	Yeas,	4
	Nays,	0
	Absent,	2-W.W. Ross, Jr., T. Herron
	Abstain,	0

XVII. MOTIONS FROM CLOSED SESSION: None

Vice Mayor, R. Cassell – One thing real quick. We had talked before and I know Michele has been covered up about possibly looking into dealing with barking dogs. Whether it’s an ordinance or whatever, you were going to check to see about the state ordinances or something.

Town Attorney, M. Brooks – I can’t find anything as far as barking dogs.

Town Manager, J. Keller – Sullivan County is having a hard time about that.

Town Attorney, M. Brooks – Yes, have I spent a whole lot of time on that, no I have not. But, I just did a cursory.

Vice Mayor, R. Cassell –There’s nothing?

Town Attorney, M. Brooks – Everything that I’ve said is that it falls under nuisance and they can seek private redress.

Vice Mayor, R. Cassell – So, it falls back pretty much civil?

Town Attorney, M. Brooks – Probably will.

Vice Mayor, R. Cassell – No way to add it to the noise ordinance or anything?

Town Attorney, M. Brooks – I just think it would be, I mean the Chief, it would probably be very difficult to enforce. Would you?

Chief Birchfield – It wouldn't be enforceable on a meter, of course, and I don't know any other way we could enforce it. You go out and you say the dog is barking and yes the dog is barking.

Council Member, F. Perry – What else does a dog do?

Chief Birchfield – There's no doubt what's he's talking about.

Town Attorney, M. Brooks – Oh, I don't disagree with you at all.

Vice Mayor, R. Cassell – But that's one of the things that you just do it civil through District Court? Cause, I'm having people calling me and asking me constantly and I don't know what to tell them?

Town Attorney, M. Brooks – It's nuisance, is where it falls under and they will probably need to seek

Vice Mayor, R. Cassell – And that would fall under the nuisance

Town Attorney, M. Brooks – It should.

Vice Mayor, R. Cassell – That's all I need to know.

XVIII. ADJOURN

Motion made to adjourn the meeting until the next regularly scheduled Council Meeting, June 12, 2012, at 6:00 P.M.

Motion by: Vice Mayor, R. Cassell 2nd by: Council Member, R. Lane

VOTE: Yeas, 3
Nays, 0
Absent, 2-W.W. Ross, Jr.
Abstain, 0

*Mayor Jenkins adjourned the meeting at 8:08 P.M.

Mark Jenkins – Mayor

Kathy Riley – Town Clerk

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION WATER BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$1,265,387 OF THE TOWN OF GATE CITY, VIRGINIA, AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

RECITALS

The Town of Gate City (the "Town") is a political subdivision of the Commonwealth of Virginia;

Pursuant to the Public Finance Act of 1991 (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended) (the "Act"), the Council of the Town (the "Council") is authorized to contract debts on behalf of the Town and to issue, as evidence thereof, bonds, notes or other obligations payable from either or both of a pledge of the revenues from the Town's water system and a pledge of the Town's full faith and credit;

The Council has determined it is necessary and expedient to undertake the replacement of water lines (the "Project") of the Town and to borrow money and issue bonds for the purpose of financing a portion of the cost of the Project; and

On May 8, 2012, the Council held a public hearing on the proposed issuance of bonds in the estimated maximum aggregate amount of \$1,265,387, the general purpose of which is to provide funds to pay the costs of the Project, in accordance with Section 15.2-2606 of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF GATE CITY, VIRGINIA:

ARTICLE I

RECITALS; DEFINITIONS

Section 1.1 Recitals. The recitals are made a substantive part of this resolution.

Section 1.2. Definitions. Whenever used in this resolution, unless a different meaning clearly appears from the context:

"Bonds" shall mean the Town's general obligation water bonds issued pursuant to this resolution;

"Fund" shall mean the Virginia Water Supply Revolving Fund, its successors and assigns; and

"VRA" shall mean the Virginia Resources Authority, as Administrator of the Fund.

ARTICLE II

AUTHORIZATION OF PROJECT

Section 2.1. Project. The Council hereby determines that it is necessary and expedient for the Town to undertake the Project and to borrow money for such purposes and to issue its general obligation bond therefore.

ARTICLE III

AUTHORIZATION, FORM, EXECUTION, DELIVERY, REGISTRATION AND REDEMPTION OF BONDS

Section 3.1. Authorization of the Bonds. It is hereby determined to be advisable, necessary and expedient for the Town to borrow an aggregate amount not to exceed \$1,265,387 (the "Maximum Amount"), to provide funds, together with other funds that may be available, to finance the Project, and to pay the costs of issuing the Bonds. Pursuant to the Act, there are hereby authorized to be issued and sold to the VRA general obligation water bonds of the Town in an aggregate principal amount not to exceed the Maximum Amount. Each of the Bonds will provide for principal advances to be made and noted on the Bond from time to time as funds are advanced by the VRA under the Bond.

Section 3.2. Details of the Bonds.

(a) The Bonds shall be issued as a two, fully registered bonds without coupons, (1) one of which shall be in a principal amount not to exceed \$784,550 and shall bear no interest and (2) the other which shall be in a principal amount not to exceed \$480,837 and shall bear a Cost of Funds consisting of interest and an annual administrative fee. The principal of the Bonds and Cost of Funds shall be payable in the amounts and on the dates established in accordance with subsection (b) below.

(b) Each of the Mayor or Vice-Mayor is hereby authorized to determine and approve all of the other final details of each of the Bonds, including, but not limited to, its description and series designation, dated date, original principal amount, the payment dates of principal and Cost of Funds, and the amount of each payment, provided that the original principal amount of each Bond shall not exceed the maximum amount described in (a) above for such Bond, the Cost of Funds shall not exceed 3.00% per annum, and the due date of the last installment of principal and Cost of Funds is not later than 40 years after the date of the Bond. Such officer's determination and approval of the final details of each Bond shall be evidenced conclusively by such officer's execution and delivery of the Bond in accordance with Sections 3.3 and 3.7 hereof.

Section 3.3. Execution of Bonds. The Bonds shall bear the manual signature of the Mayor or Vice-Mayor and shall bear a manually impressed or imprinted facsimile of the seal of the Town attested by the manual signature of the Town Clerk. In case any officer whose signature shall appear on a Bond shall cease to be such officer before the delivery of that Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until

such delivery. Each Bond may be signed by such persons as at the actual time of the execution of it shall be the proper officers to sign that Bond although at the date of such Bond such persons may not have been such officers.

Section 3.4. Form of Bond. Each Bonds shall be in substantially the form attached hereto as Exhibit A, with such variations, insertions and omissions as shall be consistent with the terms of this resolution, the execution and delivery of the Bond constituting conclusive evidence that any variations, insertions and omissions are consistent with this resolution. Upon request of the VRA, the Town shall arrange to have prepared, executed, authenticated and delivered in exchange as soon as practicable bonds in printed form in an aggregate principal amount equal to the unpaid principal of a Bond in typewritten form, in denominations of \$5,000 and multiples thereof, except for one bond which may be issued in an odd denomination of not less than \$5,000, of the same form and maturity and registered in such names as requested by the VRA or its duly authorized attorney or legal representative. The typewritten bond surrendered in any such exchange shall be canceled.

Section 3.5. Bond Registrar. The Treasurer of the Town is hereby appointed Bond Registrar for the Bonds.

Section 3.6. Registration, Transfer and Exchange. The Town shall cause books for the registration and transfer of the Bonds (and any printed bond or bonds issued in substitution for any Bond in accordance with Section 3.4 above) to be kept at the office of the Bond Registrar, and the Town hereby instructs the Bond Registrar to keep such books and to make such registrations and transfers under such reasonable regulations as the Town or the Bond Registrar may prescribe. Transfer of the Bonds or any printed bond issued in substitution for it may be registered upon books maintained for that purpose at the office of the Bond Registrar. Prior to due presentment for registration of transfer, the Bond Registrar shall treat the registered owner as the person exclusively entitled to payment of principal of and Cost of Funds, if any, on a Bond and the exercise of all other rights and powers of the owner.

Section 3.7. Preparation and Award of Bonds. After consideration of the methods of sale of the Bonds and the current state of the municipal bond market, the Council hereby determines that it will be in the best interests of the Town to accept the offer of the VRA to purchase the Bonds, and the Bonds are hereby awarded to the VRA in accordance with the Financing Agreements described in Section 3.8 hereof. Each of the Mayor, the Vice-Mayor, the Treasurer and the Clerk of the Town are hereby authorized and directed to take all proper steps to have each Bond prepared and executed in accordance with its terms and to deliver that Bond to the VRA in accordance with the terms of the applicable Financing Agreement.

Section 3.8. Authorization of Financing Agreements and Other Matters. The two Financing Agreements between the VRA and the Town, the forms of which have been presented to the Council at this meeting and filed with the records of the Council, are approved (the "Financing Agreement"). Each of the Mayor and Vice-Mayor of the Town is authorized to execute and deliver on behalf of the Town each Financing Agreement in substantially the form submitted to the Council, with such changes, insertions or omissions as may be approved by the Mayor or Vice Mayor, whose approval shall be evidenced conclusively by the execution and delivery of that Financing Agreement.

Each of the Mayor, the Vice-Mayor, the Clerk and any other officer of the Town is authorized to execute and deliver on behalf of the Town such other instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized by this resolution or contemplated by the Bonds or the Financing Agreements, and all of the foregoing, previously done or performed by such officers of the Town, are in all respects approved, ratified and confirmed.

Section 3.9. Constitutional Authority. The Bonds shall be issued under the provisions of Article VII, Section 10(a) of the Constitution of Virginia (other than Subsection (2) thereof). The principal of and Cost of Funds, if any, on the Bonds shall be payable from (a) the revenue derived from the operation of the Town's water system (the "System"), if such revenue is pledged for the payment of the Bond pursuant to the Financing Agreement, and (b) ad valorem taxes to be levied without limitation as to rate or amount on all property in the Town subject to taxation, to the extent other funds of the Town are not lawfully available and appropriated for such purpose.

Section 3.10. Election of Applicable Law. To the extent permitted by Section 15.2-2601 of the Act, the Council elects that the Bonds will be issued under the provisions of the Act without regard to the requirements, restrictions or provisions contained in any charter or local or special act applicable to the Town.

ARTICLE IV

PARTICULAR COVENANTS

Section 4.1. Payment of the Bonds. The Town shall pay promptly the principal and Cost of Funds of the Bonds in accordance with their respective terms. Nothing in the Bonds or in this resolution shall be deemed to create or constitute an indebtedness of the Commonwealth of Virginia or any of its political subdivisions other than the Town, or a pledge of the full faith and credit of the Commonwealth of Virginia or of any of its political subdivisions other than the Town.

Section 4.2. Pledge of Full Faith and Credit; Tax Rate Covenant. The full faith and credit of the Town are irrevocably pledged for the payment of principal of and Cost of Funds on the Bonds. The Council hereby covenants and agrees that so long as either of the Bonds is outstanding, unless other funds are lawfully available and appropriated for timely payment of the Bond, the Council will levy and collect annually, at the same time and in the same manner as other taxes of the Town are assessed, levied and collected, over and above all other taxes authorized or limited by law, an ad valorem tax, without limitation as to rate or amount, on all the taxable property in the Town in an amount sufficient to pay principal of and Cost of Funds, if any, on the Bond as the same become due and payable.

Section 4.3. Pledge of Revenues. To the extent provided in the Financing Agreement applicable to either Bond, revenues derived from the System shall be pledged to the payment of the principal of and Cost of Funds, if any on that Bond. Such pledge shall be on parity with any pledge of revenues of the System to the payment of the "Parity Bonds" as defined in such Financing Agreement.

ARTICLE V
MISCELLANEOUS

Section 5.1. Contract with Bondholders. The provisions of this resolution shall constitute a contract between the Town and the holder of each Bond for so long as that Bond is outstanding.

Section 5.2. Authority of Officers and Agents. The officers and agents of the Town shall do all acts and things required of them by this resolution and the Bonds for the complete and punctual performance of all the terms, covenants and agreements contained therein. The appropriate officers of the Town are further authorized and empowered to take such other action as they may consider necessary or desirable to carry out the intent and purpose of this resolution, and the issuance of the Bonds.

Section 5.3. Limitation of Liability of Officials of Town. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of an officer, employee, member of Council, or agent of the Town in his or her individual capacity, and no officer of the Town or member of Council executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds. No officer, employee or agent of the Town shall incur any personal liability with respect to any other action taken by him or her pursuant to this resolution, provided he or she acts in good faith.

Section 5.4. Conditions Precedent. Upon the issuance of either Bond, all acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia or this resolution to have happened, exist and to have been performed precedent to or in the issuance of that Bond shall have happened, exist and have been performed.

Section 5.5. Headings. The headings in this resolution are solely for convenience of reference and shall not constitute a part of the resolution nor shall they affect its meaning, construction or effect.

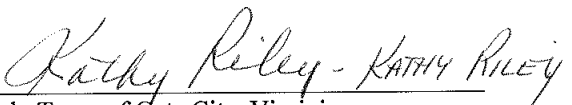
Section 5.6. Severability. If any court of competent jurisdiction shall hold any provision of this resolution to be invalid and unenforceable, such holding shall not invalidate any other provision of this resolution.

Section 5.7. Effective Date. This resolution shall take effect immediately. All ordinances, resolutions or parts thereof in conflict herewith are repealed.

Section 5.8. Filing of Resolution. The Clerk is hereby authorized and directed to see to the prompt filing of a certified copy of this resolution with the Circuit Court of Scott County, Virginia.

The undersigned Clerk of the Town of Gate City, Virginia, hereby certifies that (a) the foregoing constitutes a true, complete and correct copy of a resolution adopted by the Council at a meeting of the Council held on MAY 8, 2012, (b) such meeting was a regularly scheduled meeting, duly called and held, and (c) during the consideration of the foregoing resolution, a quorum was present. I hereby further certify that the minutes of such meeting reflect how each member of Council voted with respect to the adoption of the foregoing resolution as follows:

Member	Attendance	Vote
VICE MAYOR, R. CASSELL	PRESENT	YEA
COUNCIL MEMBER, F. PERKY	PRESENT	YEA
COUNCIL MEMBER, R. LANE	PRESENT	YEA
COUNCIL MEMBER, T. HERRON	ABSENT	NO VOTE
COUNCIL MEMBER, W.W. ROSS JR.	ABSENT	NO VOTE


Clerk, Town of Gate City, Virginia

(SEAL)

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ORDINANCE 05-08-2012

To amend Chapter 6, of the Town of Gate City Ordinances, to include Section 6.5, Collection of Fees relating to payment of administrative fees, attorney's fees and collection agency's fees imposed upon persons with delinquent taxes or other delinquent charges pursuant to Virginia Code Section 58.1-3958.

WHEREAS, Section 58.1-3958 of the Code of Virginia authorizes towns to impose fees to cover the administrative costs and reasonable attorney's or collection agency's fees upon persons with delinquent taxes or other delinquent charges; and

WHEREAS, the Town of Gate City Council, after due consideration of this matter and after conducting a public hearing giving an opportunity for public comment, finds it appropriate, and in the best interest of the Town of Gate City, to enact and adopt this ordinance pursuant to the Charter of the Town of Gate City, Virginia and §58.1-3958 of the Code of Virginia, 1950, as amended.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the governing body of the Town of Gate City Council this 8th day of May 2012, that Chapter 6, Section 6.5 of the Town of Gate City Ordinances be, and is hereby read as follows:

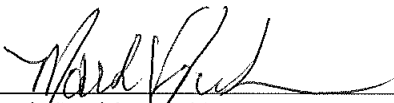
Chapter 6, Section 6.5 – Collection of Fees

Any person liable for any taxes imposed by this Chapter or for other delinquent charges owed to the Town, who fails to pay or remit the taxes required under this Chapter or other delinquent charges on or before the due date shall, in addition to all penalties and interest, pay a fee to cover the administrative costs associated with the collection of taxes or other delinquent charges. A fee of thirty (\$30.00) dollars shall be imposed upon all taxpayers from who taxes are collected subsequent to thirty (30) or more days after notice of delinquent taxes or charges pursuant to Section 58.1.3919 VA Code, but prior to the taking of any judgment with respect to such delinquent taxes or charges. A fee of thirty-five dollars (\$35.00) shall be imposed upon all taxpayers from whom taxes are collected subsequent to judgment. Additionally, collection agency's fees or attorney's fees actually contracted for not to exceed twenty (20) percent of the delinquent tax bill, may be recovered from any such person whose taxes are thereafter collected by a private collection agent or attorney. The Treasurer may waive any administrative fees imposed by this section when it is determined

that the failure to pay a tax imposed under this Chapter was not the fault of the taxpayer. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be one hundred and fifty dollars \$150.00 or twenty-five (25) percent of the cost, whichever is less; however, in no event shall the fee be less than twenty-five dollars (\$25.00).

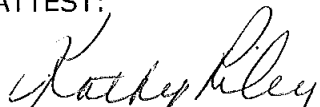
; and, be it

ORDAINED FURTHER, These fees imposed under this Ordinance shall be effective May 8, 2012.



Mark Jenkins - Mayor

ATTEST:



Kathy Riley - Town Clerk

CHAPTER 6

FINANCE AND TAXATION

Sec. 6.1	Real Estate Tax
Sec. 6.2	Bank Franchise Tax
Sec. 6.3	Utilities Tax
Sec. 6.4	Business Licenses
Sec. 6.5	Collection of Fees

Sec. 6.1. Real Estate Tax

- (a) There is hereby levied a tax of fifteen (\$0.15) cents of each one hundred (\$100.00) dollars of assessed value of all real estate and improvements thereon.
- (b) A penalty of five (5) percent and ten (10) percent interest will be added if not paid by due date.

Sec. 6.2. Bank Franchise Tax Imposition

Sec. 6.2.1. Definitions

For the purpose of this ordinance, the following words shall have the meanings ascribed to them by this section:

- (a) Bank – Shall be as defined in Section 58-485-01 of the Code of Virginia.
- (b) Net Capital – Shall mean a bank's net capital computed pursuant to Section 58-485.07 of the Code of Virginia.

Sec. 6.2.2. Imposition of Town Bank Franchise Tax

- (a) Pursuant to the provisions of Chapter 10.01 of Title 58 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this town a tax on net capital equaling eighty (80) per centum of the state rate of franchise tax set forth in Section 58-485.06
- (b) In the event that any bank located within the boundaries of this town is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by Section 58.485.012 of the Code of Virginia.

Sec. 6.2.3. Filing of Return and Payment of Tax

- (a) On or after the first day of January of each year, but not later than march One of any such years, all banks whose principal offices are located within this town shall prepare and file with the Commissioner of the Revenue a return as provided by Section 58-485.013 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to Chapter 10.01 of Title 58 of the Code of Virginia. The Commissioner of Revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.
- (b) In the event that the principal office of a bank is located outside the corporate boundaries of

this town and such bank has branch offices located within this town, in addition to the filing requirements set forth in Section A hereof, any bank conducting such branch business shall file with the Commissioner of the Revenue of Scott County, Virginia, a copy of the real estate deduction schedule apportionment and other items which are required by Sections 58-485.012, 58-485.013 and 58-485.014 of the Code of Virginia.

(c) Each bank, on or before the first day of June of each year, shall pay into the treasurer's office of this town all taxes imposed pursuant to this ordinance.

Sec. 6.2.4. Penalty Upon Bank for Failure to Comply with Ordinance

Any bank which shall fail or neglect to comply with any provision of this ordinance shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, which fine shall be recovered upon motion, after five (5) days' notice in the Circuit Court of this locality. The motion shall be in the name of the Commonwealth and shall be presented by the attorney for the Commonwealth of this locality.

Sec. 6.3. Utilities Tax

Sec. 6.3.1. Definitions

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) Residential, Commercial, or Industrial. The residential, commercial or industrial rate shall apply to purchasers of electric, gas or telephone service in accordance with purchasers classification as residential, commercial or industrial as designated by the seller of the utility service within the Town of Gate City. The phrase "commercial" shall include, in addition to the normal word usage, buildings having a single meter for the furnishing of electricity or gas to two or more dwelling units or have a central telephone switchboard furnishing telephone service to two or more dwelling units.

(b) Person. The word "person" shall include individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

(c) Purchaser of Utility Service. The word "purchaser" used in this ordinance shall be deemed to include all consumers of said services as contemplated in Sec. 58.578.1 and 58.617.2 of the 1950 Code of Virginia as amended except utilities owned by the Town of Gate City, Virginia.

(d) Seller. The word "seller" as used herein shall include any organization, firm, corporation, cooperative, sanitary district, foreign municipality or any other provider of the utility services covered herein of whatever nature or type of organization, the same may be and shall specifically include all suppliers and sellers of utility services contemplated in Secs. 58-587.1 and 58-617.2 of the 1950 Code of Virginia, as amended except utilities owned by the Town of Gate City, Virginia.

(e) Utility Service. The phrase "utility service" shall include local exchange telephone service, electric and gas service furnished within the Town of Gate City.

(f) Venue for the Purposes of Section 10. Shall mean where a utility service is performed.

Sec. 6.3.2. Amount of Tax

There is hereby imposed and levied by the Town of Gate City upon each and every purchase of a utility service a tax for general purposes in the following amounts (7/1/82):

(a) On purchasers of electric service or gas delivered in pipe line for residential purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such residential electric services; (provided, however, that in any case a monthly bill submitted by the seller for electric or gas utility service for residential purposes shall exceed 15 dollars, there shall be no tax computed on so much of such bill as shall exceed 15 dollars, except that there shall be no tax computed on bills submitted for electric service for water heating where a separate meter is used solely for water heating service or on bills submitted for unmetered electric or gas service.)

(b) On purchasers of electric or gas service for commercial purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such commercial electric service (provided, however, that in any case any monthly bill submitted by the seller for electric or gas service for commercial purposes shall exceed 37 50/100 dollars, there shall be no tax computed on so much of such bill as shall exceed 37 50/100 dollars).

(c) On purchasers of electric or gas service for industrial purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such industrial electric or gas service (provided, however, that in any case any monthly bill submitted by the seller for electric or gas service for industrial purposes shall exceed 75 dollars, there shall be no tax computed on so much of such bill as shall exceed 75 dollars).

(d) On purchasers of telephone service for residential or commercial or industrial purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such telephone service (provided, that in any case any monthly bill for telephone service for residential purposes shall exceed 10 dollars, there shall be no tax computed on so much of such bill as shall exceed 10 dollars; and, provided further, that in any case any monthly bill for telephone service for commercial or industrial purposes shall exceed 25 dollars, there shall be no tax computed on so much of such bill as shall exceed 25 dollars).

(Bills shall be considered monthly bills if submitted twelve times annually for a period of approximately one month or portion thereof. In case bills are submitted by any seller for two months' service, there

shall be no tax computed on so much of such bill as shall exceed 20 dollars for telephone service rendered for commercial or industrial services, 30 dollars for electric or gas utility service rendered for residential purposes, 75 dollars for electric or gas utility service rendered for commercial purposes, 150 dollars for electric or gas utility service rendered for industrial purposes. In the event that bills shall be rendered for utility services herein stated on a basis other than one month or two months, the tax imposed hereby shall be computed pro rata as if such bill was rendered on a monthly basis with the rates and the maximums herein applied.)

Each purchaser of the specified utility services shall pay the tax imposed and levied by this ordinance at the time the purchase price is paid to the seller of the utility service. In the event a purchaser makes a partial payment, the tax must be paid at the time the final portion of the purchase price is paid.

Sec. 6.3.3. Requirements Particularly Applicable to Telephone

The tax imposed and levied by this ordinance on purchasers with respect to telephone service shall apply to all charges made for local exchange service except as follows:

(a) Coin Box Telephone. The total amount of the guaranteed charge on each bill rendered for semi-public coin box telephone service shall be included in the basis for the tax with respect to the purchaser of such service, but no other tax shall be imposed on telephone service paid for by inserting coins in coin-operated telephones.

(b) Flat Rate Service. With respect to flat rate and flat message rate service, the tax shall apply to only the amount payable for local area service and shall not apply to any specific charge for calls to points outside the Town or to any general charge or rate differential payable for the privilege of calling points outside the Town.

(c) Message Rate Service. Where purchasers of telephone service are charged on a message rate basis, the tax shall apply only to the basic charge for such service and shall not apply to any charge for additional message units.

Sec. 6.3.4. Collection

The Town Treasurer is charged with the power and duty of collecting the taxes imposed and levied under this ordinance from the sellers of the utility service.

Sec. 6.3.5. Filing Forms

Prescription of forms for reports, etc. The Town Treasurer may prescribe forms for filing of any report or the payment of any funds set forth in this ordinance.

Sec. 6.3.6. Duty of Seller Generally

(a) It shall be the duty of every seller in acting as the tax collection medium or agency for the Town to collect from the purchaser for use of the Town, the tax imposed and levied by this ordinance at the taxes collected during each calendar month or billing period shall be reported and paid by each seller to the

Town Treasurer by the last day of the second calendar month thereafter, together with the name and address of any purchaser who has paid his total purchase price but has failed to pay the tax imposed and levied under this section.

(b) In all cases where the seller collects the price for utility service in stated periods, the tax imposed and levied by this ordinance shall be computed on the amount of purchase during the month or period according to each bill rendered, provided the amount of tax to be collected shall be the nearest whole cent to the amount computed.

Sec. 6.3.7. Records to Be Kept by Seller

Each seller shall keep complete records showing all purchasers in the Town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof, and the amount of tax imposed hereunder and such records shall be kept open for inspection by the duly authorized agents of the Town during regular business hours on business days, and the duly authorized agents of the Town shall have the right, power, and authority to make such transcripts thereof during such times as they may desire.

Sec. 6.3.8. Extension of Time for Filing Return

The Town Treasurer may extend, for good cause shown, the time of filing any return required to be filed by the provisions of this ordinance; provided, however, no such extension shall exceed a period of ninety days.

Sec. 6.3.9. Exemptions From Ordinance

The United States of America, diplomatic personnel exempted by the laws of the United States, the state and the political subdivisions, boards, commissions and the authorities and agencies thereof, churches and residences of ministers owned by a religious body, are hereby exempt from the payment of the tax imposed and levied by this ordinance with respect to the purchase of utility services used by such agencies.

Sec. 6.3.10. Penalties

Any purchaser who fails to pay the tax imposed or levied by this ordinance and any seller violating the provisions of this ordinance and any officer, agent or employee of any seller violating the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than three hundred dollars.

Upon failing to pay the tax when the total purchase price is paid or when the final portion of a purchase price paid in partial payments is paid, each day's continuance of failing to pay shall constitute a separate offense.

Such conviction shall not relieve any person from the payment, collection and remittance of such tax as provided in this ordinance.

Sec. 6.3.11. Severability

Should any article, section, subsection, or provision of this consumer utility tax ordinance be declared by a court of competent jurisdiction to be

Invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this consumer utility tax ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Sec. 6.4. Business Licenses

See Schedule of Taxes In Chapter Eleven

Sec. 6.5 Collection of Fees (Ordained and Enacted 5-8-2012)

Any person liable for any taxes imposed by this Chapter or for other delinquent charges owed to the Town, who fails to pay or remit the taxes required under this Chapter or other delinquent charges on or before the due date shall, in addition to all penalties and interest, pay a fee to cover the administrative costs associated with the collection of taxes or other delinquent charges. A fee of thirty (\$30.00) dollars shall be imposed upon all taxpayers from whom taxes are collected subsequent to thirty (30) or more days after notice of delinquent taxes or charges pursuant to Section 58.1.3919 VA Code, but prior to the taking of any judgment with respect to such delinquent taxes or charges. A fee of thirty-five dollars (\$35.00) shall be imposed upon all taxpayers from whom taxes are collected subsequent to judgment. Additionally, collection agency's fees or attorney's fees actually contracted for not to exceed twenty (20) percent of the delinquent tax bill, may be recovered from any such person whose taxes are thereafter collected by a private collection agent or attorney. The Treasurer may waive any administrative fees imposed by this section when it is determined that the failure to pay a tax imposed under this Chapter was not the fault of the taxpayer. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be one hundred and fifty dollars \$150.00 or twenty-five (25) percent of the cost, whichever is less; however, in no event shall the fee be less than twenty-five dollars (\$25.00).