

**Town of Bluefield
Town Council
Minutes
May 14, 2019**

The Bluefield, Virginia Town Council held a regularly scheduled Town Council Meeting on Tuesday, May 14, 2019 at 7:30 p.m. in the Council Chambers of the Town Hall located at 112 Huffard Drive, Bluefield, Virginia.

PRESENT

Don Harris, Mayor
Jimmy Jones, Councilmember
Chuck Presley, Councilmember
Jarrod Bailey, Councilmember
Ron Holt, Councilmember
Anglis Trigg Jr., Vice-Mayor

ALSO PRESENT

Mike Watson, Town Manager
Lesley Catron, Town Clerk
Shane Gunter, Police Chief
Billie Roberts, Comm. Dev. Coordinator
Matt Freedman, Town Attorney
3 Members of Police Dept.
25 Members of Public
1 Member of Media

CALL TO ORDER

Mayor Harris called the meeting to order at 7:35 p.m.

INVOCATION AND PLEDGE

Rev. Dr. Jay Ferguson, First United Methodist Church led the Invocation. Mayor Harris led the Pledge of Allegiance.

APPROVAL OF AGENDA

Councilmember Presley made a motion to approve the agenda. Councilmember Bailey seconded the motion. The motion passed unanimously by voice vote.

CONSENT AGENDA

Councilmember Jones made a motion to approve the consent agenda. Councilmember Presley seconded the motion. The motion passed unanimously by voice vote.

CITIZEN REQUESTS & SPECIAL PRESENTATIONS

Special Presentation: Promotion of Justin McCulley to Lieutenant – Police Chief Shane Gunter

Mr. Watson asked Officer McCulley to come forward. He stated that being promoted to Lieutenant was 2nd in command and asked him to repeat the following after him:

I, Justin McCulley do solemnly swear that I will support the constitution of the United States and the constitution of the State of Virginia and that I will faithfully and impartially discharge the duties incumbent upon me as a Police Lieutenant of the Town of Bluefield, VA to the best of my ability so help me God.

Mr. Watson congratulated him.

Special Presentation: Katherine Johnson Resolution – Mayor Don Harris

Mayor Harris asked the sorority members to come forward and stated that a plaque was placed on the Graham Manor building in honor of Katherine Johnson.

Susie Green stated that they represented the Beta Lambda Omega Chapter of the Alpha Kappa Alpha Sorority, Inc. which was a sorority with over 10k members internationally. She stated that their local chapter's motto was service to all mankind. She stated that they wanted to honor Katherine Johnson, an African American teacher of math and music. She stated that she first taught at the Tazewell County High School which Mr. Trigg graduated from and is now known as the Graham Manor. She stated that her three daughters also attended the school as young students and shortly after leaving the school in the 50's, she started working for NASA. She stated that if anyone had seen the movie "Hidden Figures" that it was a good idea of what she did. She stated that Mrs. Johnson was a math genius and knew how to calculate the distance to the moon, landing and the preciseness of the landing and that John Glenn favored her calculations more than anyone else. She stated that she calculated where he would land and he landed on that very calculation. She stated that for years she was not recognized until this movie and that the sorority wanted to recognize her for being a sorority sister. She stated that Mrs. Johnson will be 101 years old and was still living. She stated that she attended West Virginia State University where she graduated and that they had unveiled a statue honoring her last year. She stated that they wanted to honor her as being a teacher at this school and thanked everyone for this opportunity.

Mrs. Catron read the following resolution:



**TOWN OF BLUEFIELD
RESOLUTION
KATHERINE COLEMAN GOBLE JOHNSON**

WHEREAS, Katherine Coleman Goble Johnson was born in White Sulphur Springs, West Virginia in August of 1918; and

WHEREAS, she completed high school by the age of 14 and graduated from West Virginia State College at the age of 18 with degrees in Mathematics and French; and

WHEREAS, in the 1950's, she started her career teaching music and math at the former Tazewell County High School in Bluefield, Virginia; and

WHEREAS, in 1953, she began working for NASA verifying calculations for engineers and became well known for her accuracy in computerized space navigation; and

WHEREAS, she had many accomplishments during her years employed by NASA, including providing the flight trajectory analysis for the 1961 Freedom 7 Mission, verifying the computer programmed equations for accuracy for the Friendship 7 Orbital Mission, and providing the calculations that helped synch Project Apollo's Lunar Lander with the moon-orbiting Command and Service Module; and

WHEREAS, she also authored and coauthored 26 research reports, worked on the Space Shuttle and the Earth Resources Satellite, and received numerous awards including the Space Flight Awareness Silver Snoopy Award, the 2017 National Space Grant Distinguished Service Award, and the Presidential Medal of Freedom presented in 2015 by President Obama; and

WHEREAS, the Beta Lambda Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated, dedicated a plaque in honor of their sorority sister, Katherine Johnson, at Graham Manor, the site of the former Tazewell County High School in Bluefield, Virginia.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA, recognizes the tremendous contributions and impressive feats of Katherine Coleman Goble Johnson to space navigation, which has led to historical missions in America's space program.

Adopted the 26th day of March 2019. Presented the 14th day of May 2019.

Donald R. Harris, Mayor

Lesley L. Catron, Town Clerk

COMMITTEE REPORTS

None.

UNFINISHED BUSINESS & REPORTS

Paving Update, VDOT Grant – Billie Roberts

Mrs. Roberts stated that she wanted to go over what funding they could look forward to this spring and into next year from the State of Good Repair Funding. She stated that this funding went through VDOT which helped with deteriorated pavement. She stated that this was a competitive process that they had to go through and involved submitting an application every year. She stated that it was a great program and was 100% funded with no match required. She stated that they would start on Luther Street and go to Norris Street which was a full mile. She stated that we would administer the project and would advertise for bids in the paper and the way it worked was we would submit the invoices to VDOT to receive payment. She stated that what was approved for 2020 was from Norris Street to Meredith Street and combined the total amount was a little over \$500k. She stated that VDOT rated all paving and anything less than a 60 rating you were eligible to apply for.

NEW BUSINESS & REPORTS

VDOT Stars Program Update – Billie Roberts

Mrs. Roberts stated that this was the first time we had been involved in this study (STARS-Strategically Targeted Solutions Affordable Roadway Solutions Study). She stated that the VDOT Districts were allowed to pick one locality per county that they would like to study and the Bristol office chose us because we have had strong applications in the past for Smart Scale money, Revenue Sharing, etc. She stated that a lot of the times we were right at the end of getting those projects funded so this would help our applications to be stronger and would help the Comprehensive Innovative Transportation Solutions to relieve our congestion and help with traffic and safety challenges. She stated that she and Mr. Watson would have scoping meetings starting soon with VDOT which was important in preparing sources of current data and developing solutions for the 6 year plan. She stated that this would help create strong applications and would improve the accuracy of cost estimates and schedules which made strong applications. She stated that the process could take up to an 18 month process and the first study they were working on was 460 down to Leatherwood Lane to Bluefield College, Commerce Drive and around (the whole loop). She stated that they would start seeing traffic counters over the next few weeks and this was 100% funded and a great resource to have.

Mr. Watson stated that another project she was working on was the HB2 and we were right on the edge and hopefully in June they would vote for it. He stated that it was 100% funding that would replace and update the lights from the fountain to BB&T and they would check to see if crosswalks could be added in.

Mrs. Roberts stated that our rep was pushing for us to get this project approved.

Mayor Harris thanked her for all of her hard work.

Budget Amendments, VOTE – Lesley Catron

Mrs. Catron stated that the following budget amendments needed to be approved.

PURPOSE: Economic Development – Bank of Graham Building

Revenue

Line Item		Original Budget	Amended Budget	Change
0100-0509	From Prior	<u>\$208,430.00</u>	<u>\$246,507.00</u>	<u>\$38,077.00</u>
	Years Reserves	<u>\$208,430.00</u>	<u>\$246,507.00</u>	<u>\$38,077.00</u>

Expenditure

Line Item		Original Budget	Amended Budget	Change
8120-5652	Economic	<u>\$105,000.00</u>	<u>\$143,077.00</u>	<u>\$38,077.00</u>
	Development	<u>\$105,000.00</u>	<u>\$143,077.00</u>	<u>\$38,077.00</u>

PURPOSE: Reimbursement from VACORP for Property Damage to P.D. Vehicle

Revenue

Line Item		Original Budget	Amended Budget	Change
0900-0204	Recovered	<u>\$40,322.86</u>	<u>\$41,573.48</u>	<u>\$1,250.62</u>
	Costs	<u>\$40,322.86</u>	<u>\$41,573.48</u>	<u>\$1,250.62</u>

Expenditure

Line Item		Original Budget	Amended Budget	Change
1252-4245	Garage / Maint.,	<u>\$8,000.00</u>	<u>\$9,250.62</u>	<u>\$1,250.62</u>
	Tires, Parts	<u>\$8,000.00</u>	<u>\$9,250.62</u>	<u>\$1,250.62</u>

Mr. Trigg made a motion to approve the Budget Amendments. Mr. Presley seconded the motion.

ROLL CALL VOTE

Vice-Mayor Trigg:	Yes
Councilmember Presley:	Yes
Councilmember Bailey:	Yes
Mayor Harris:	Yes
Councilmember Jones:	Yes
Councilmember Holt:	Yes

The motion passed unanimously by Roll Call Vote.

Resolution for Princeton Rescue Squad, VOTE – Lesley Catron

Mrs. Catron stated that this past February, we had a Police Officer injured during a traffic stop and the community far and wide reached out to help this officer and our Police Department including the Princeton Rescue Squad who a few weeks ago sold t-shirts as a fundraiser giving the proceeds of that fundraiser to the officer. She stated that it was a great act of generosity of showing their support to our injured officer as well as other law enforcement agencies and first responders. She stated that if council would like, staff would prepare a resolution for the Princeton Rescue Squad to show the Town's appreciation for what they did.

Mr. Trigg made a motion to approve the Resolution for the Princeton Rescue Squad. Mr. Holt seconded the motion.

Mr. Holt stated that they were some great folks and did not have to do this but wanted too.

The motion passed unanimously by voice vote.

HEAL Grant – Lesley Catron

Mrs. Catron stated that over the past several years, the Town had enacted several different initiatives to promote healthy eating and active living in our community. She stated that Mrs. Roberts had previously brought forth the idea to council about the FIT Trail and the details located at Graham Rec Park to encourage healthy fitness in our area. She stated that the Town was awarded a grant in the amount of \$10k to go towards the completion of that FIT Trail which would include a ¾ quarter of a mile paved track with 10 different fitness workout stations. She stated that Mrs. Roberts along with Mrs. Hernandez applied for that a few weeks ago and she was happy to say that we received the grant.

CITIZENS COMMENTS

David Wohlford stated he was happy to hear that the Town was working on a grant for sidewalks and crosswalks for the children. He stated that he had gone to the parks and we had fancy equipment but the slides needed to be supported under them and there was water puddles everywhere and it needed mulch. He stated that the street sweeper went down Bullet Bill Drive and all that it did was moved the rocks from the edge of the road into the street. He stated that if we had problems with ours then we needed a new one.

Erica Hall, the new Director of the Tazewell County Public Library introduced herself and thanked them for all that they did and if they ever had any questions and/or concerns to contact her.

TOWN MANAGER'S REPORT

BB&T Revised Resolution for Bobcat Financing, ROLL CALL VOTE (attached at end of minutes)

Mr. Watson stated that this was not new financing but was the original financing for the bucket truck, another vehicle and the bobcat. He stated that in the loan agreement it stated vehicles so this allowed the Town to include the bobcat. He stated that it would have the same rates but this was just a change in the wording.

Mr. Bailey made a motion to approve the BB&T revised Resolution for Bobcat Financing. Mr. Presley seconded the motion.

ROLL CALL VOTE

Vice-Mayor Trigg:	Yes
Councilmember Presley:	Yes
Councilmember Bailey:	Yes
Mayor Harris:	Yes
Councilmember Jones:	Yes
Councilmember Holt:	Yes

The motion passed unanimously by Roll Call Vote.

Brierwood Water Service Update

Mr. Watson stated that they have been having issues with the pump station and it was allowing more pressure into the homes at Brierwood. He stated that the water from the Double Gates pump went up to the tank and from the tank it went over to the pump station that had double pumps. He stated that it had been there since the development started and was dated. He stated that right now they were not having as many problems as they were but were going to replace the control panel and radio system so that they would be able to better monitor it. He stated that it would cost around \$11k.

Political Signs Discussion

Mr. Watson stated with the upcoming election, council had talked about how to handle signs and that it was in the Town Code which talked about size and the biggest issue was the 45 days. He stated that a copy of what was sent out to elected officials and property owners was in council's packet and that this was in the code book but we did not go out and pull any political signs but asked that they respectfully follow the Town's guidelines. He stated that over the next few months, we would be having more offices that were sought after and asked council if they wanted staff to continue to do address as they have and the reason he was bringing it up was because he did not want staff to be thought of as not doing their job. He stated that staff did as was directed by council and since we were not taking up the signs, this ordinance would not be enforceable and he would not feel comfortable directing staff to do this but wanted council to understand that

the signs were not pulled and was looking for direction on whether to take out of the code book or handle in a different way.

Mayor Harris stated that the code book had been effective for 50-60 years and should be left alone.

Mr. Holt stated that he had talked to Mr. Freedman about this and with it not being enforceable, it was not constitutional. He stated that it was "shaky" for the Town when they had such ordinance on the books.

Mr. Freedman stated that he wanted to mention that he had talked to Mr. Watson and had also given advice to Mr. Holt that it was not enforceable and would not hold up in court if challenged because it could be ruled unconstitutional. He stated that the only lawful way to regulate these signs was by what they call "non-content based regulations" and because it prohibited putting political signs in yards we were basically regulating the nature of the type of sign. He stated that he just wanted them to be aware of his decision but it was up to them as to what they wanted to do with the books but if he had to give them an opinion or thought that as long as they were not enforcing it, that he did not think it would be an issue but with it being on the books it was obviously a risk and the reason we were sending out these letters was staff was following what was in the books.

Mr. Trigg stated that he knew about the no signs in Sedgewood but if someone did put a sign up in Sedgewood would they have to take it down.

Mr. Freedman stated that as it related to Sedgewood that he did not know the sign ordinance in full but if our ordinance prohibited all signs in a particular type of jurisdiction that it was not enforceable to do so but if Sedgewood had covenants on properties that prohibited signs that was a different matter than what the Town was dealing with.

Mr. Watson stated that what Mr. Trigg was talking about was in the deed and certain sections of the ordinance had covenants that required no signs. He stated that it was probably a question that staff needed to come back with that it was not based on what the sign said but based on where it was located.

Mr. Bailey asked if grass cutting signs were included in that.

Mr. Watson stated that he believed that government signs were excluded.

Mr. Holt asked if an ordinance was unconstitutional then why they would keep it on the books.

Mr. Watson stated that he agreed with Mr. Holt and that it was a questionable ordinance and we did not enforce it but respectfully requested it. He asked if staff was being directed to remove the ordinance or keep it the same.

Mr. Trigg suggested leaving it the same and following the rules.

Mr. Presley stated that he liked it the way it was but Mr. Holt had a good point. He stated that he believed that the people went by the 45 days and they should keep it but they needed to enforce it every time because it was enforced on him. He stated that it should be looked at.

Mr. Bailey asked if there was anything within the constitution that regulated political signs.

Mr. Freedman stated that it was non-content regulations on size, location, etc. things that did not touch content because the issue was where it spoke of political signs.

Mr. Bailey asked if we could just take out political and have a sign only ordinance.

Mr. Freedman stated that any citizen had the right to put up any type of sign in their own yard with any message on it within the scope of the size, location, etc. He stated that was the type of regulation we could enforce. He stated that there was a particular VA Code that spoke to this and he could find it while they continued on.

Mr. Watson stated that you could regulate the size and location but not the content. He stated that a lot of times it was not even local people doing it.

Mr. Trigg stated that these signs would not hold up 45 days with the wind.

Mr. Freedman read Section 15.2-109: Regulations on political campaign signs.

No locality shall have the authority to prohibit the display of political campaign signs on private property if the signs are in compliance with zoning and right-of-way restrictions applicable to temporary nonpolitical signs, if the signs have been posted with the permission of the owner. The provisions of this section shall supersede the provisions of any local ordinance or regulation in conflict with this section. This section shall have no effect upon the regulations of the Virginia Department of Transportation.

He stated that the Town could prohibit putting signs in rights of way but could not regulate how many days a person could keep a sign in their yard.

Mr. Bailey stated that he knew in the past that they have had issues with the size and if it needed to be changed that now was the time.

Mr. Holt agreed that if it was unconstitutional then why they would keep it.

Mayor Harris stated that the majority of council agreed to the 45 days.

Mr. Watson asked what direction council wanted staff to proceed with.

Mr. Presley asked if they could take a vote.

Mayor Harris stated that they already had voted.

There were some confusion as to the vote.

Mr. Holt made a motion to remove the ordinance because it was unconstitutional. Mr. Presley seconded the motion.

Mr. Bailey asked if the motion could be amended to state that the ordinance would abide by the constitution.

Mr. Freedman stated that the motion could be made to look at amending the ordinance to ensure the compliance with the constitution.

Mr. Holt amended his previous motion to the above. Mr. Presley seconded the motion.

Mr. Watson stated that they would have to regulate all signs including real estate signs which were currently exempt in our ordinance. He stated that all other signs that were exempt would have to follow this also.

Mr. Presley asked to have a Work Session on it.

Mr. Watson stated that they had a first and second and would have to vote first.

ROLL CALL VOTE

Vice-Mayor Trigg:	No
Councilmember Presley:	Yes
Councilmember Bailey:	Yes
Mayor Harris:	No
Councilmember Jones:	No
Councilmember Holt:	Yes

The motion failed to pass 3-3.

Mr. Watson stated that he would schedule a Work Session to talk about it some more.

Donation Policy Discussion

Mr. Watson stated that at a previous council meeting it was brought up on how to handle unbudgeted donation requests. He stated that there were budgeted donation requests already in the budget but over the years it continued to grow with random donations throughout the year. He asked council for direction and if they would like to discuss it during the next Work Session.

Council agreed to sit down and discuss during the next Work Session.

Mr. Jones stated that they needed to postpone the GHS Tennis Team Donation until after their Work Session discussion.

GHS Tennis Team Donation, POSSIBLE VOTE

Mr. Watson removed this from his report until further discussion.

Police Appreciation Walk

Mr. Watson stated that the Police Appreciation Walk would be held on Saturday, May 18th beginning at the Bluefield Police Department at 11 a.m.

Cheer & Greet GIS SOL Student Testing

Mr. Watson stated that the Town was asked to greet and cheer on the GIS students, give them high-fives and hand out something to encourage them on their SOL testing on Tuesday, May 21st from 7:30 a.m. – 8 a.m. in the GIS Parking Lot. He invited council to attend.

Red Cross Blood Drive

Mr. Watson stated that the Red Cross Blood Drive would be held on June 5th in the Council Chambers from 2-6 p.m.

Community Clean-up & Cookout

Mr. Watson stated that the Community Clean-up Day and Cookout would be held on Saturday, June 8th at 8 a.m. at Pinehill Park.

COUNCIL COMMENTS

Mr. Holt stated that he had already shared the concerns related to the street sweeper and Mr. Watson was on top of it.

Mr. Jones had none.

Mr. Bailey thanked everyone for coming out to the Public Hearing and giving their ideas.

Mr. Presley gave a shout out to Town staff, Police Department, Fire Department, trash guys and BJ.

Mr. Trigg thanked everyone for coming out as well and stated that there were some good points made.

Mayor Harris thanked everyone for their input especially on the possible purchase of the Fincastle Property.

ATTORNEY REPORT

Budget Amendment Resolution, ROLL CALL VOTE (To Adopt) (attached at end of minutes)

Mr. Freedman stated that the Budget Amendment Resolution title read as followed:

A RESOLUTION TO AMEND THE 2018/2019 FISCAL YEAR BUDGET IN ORDER TO APPROPRIATE \$150,000 TO THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE TOWN OF BLUEFIELD, VIRGINIA

He stated that it was basically amending the said budget to appropriate \$150,000 from the Prior Year Reserve Revenue Line Item to the Industrial Authority Expenses Expenditure line for purposes of Economic Development within the Town of Bluefield, Virginia. He stated that if they were ok with that resolution then there needed to be a motion made and a second followed by a roll call vote as well as a motion to approve the appropriation of the funds mentioned.

Mr. Bailey made a motion to adopt and approve the Budget Amendment Resolution and also to approve the appropriation of the \$150,000. Mr. Holt seconded the motion.

ROLL CALL VOTE

Vice-Mayor Trigg:	Yes
Councilmember Presley:	Yes
Councilmember Bailey:	Yes
Mayor Harris:	Yes
Councilmember Jones:	Yes
Councilmember Holt:	Yes

The motion passed unanimously by Roll Call Vote.

Ordinance Adopting Deed of Lease with Sunset Fiber, VOTE (1ST Reading) (attached at end of minutes)

Mr. Freedman stated that this would be the first reading of the Ordinance Adopting the Deed of Lease with Sunset Fiber and he would read it in its entirety in the back of the room.

Mr. Holt made a motion to approve the 1st Reading of the Ordinance Adopting Deed of Lease with Sunset Fiber. Mr. Bailey seconded the motion. The motion passed unanimously by voice vote.

MOTION FOR CLOSED MEETING

It is hereby moved that the Council of the Town of Bluefield, Virginia enter into a closed meeting pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia (1950) as amended, The specific purpose for this motion is to discuss the following matter(s):

Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, with such closed meeting being confined to the following subject: The discussion of the possible acquisition of property for public purpose and use.

Councilmember Holt made a motion to enter into Executive Session as described above. Councilmember Presley seconded the motion. The motion passed unanimously by voice vote.

(Before council left the room to go into Executive Session)

A member of the Sedgewood Beautification Commission asked him to commend Mr. Watson and staff who had devoted their time and energy to take down the old Sedgewood pool and clearing out the area. He stated that they appreciated their efforts.

CERTIFICATION OF EXECUTIVE SESSION

WHEREAS, the Town Council of Bluefield, Virginia convened a closed meeting on May 14, 2019, pursuant to a duly adopted motion, attached hereto, and such closed meeting was convened in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Town Council of Bluefield, Virginia returned to its open meeting held on May 14, 2019.

NOW, THEREFORE, THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HEREBY CERTIFIES that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the closed meeting held on May 14, 2019, to which this certification applies and (ii) only such public business matters as were identified in the motion convening such closed meeting were heard, discussed, or considered by the Council of the Town of Bluefield, Virginia in such closed meeting.

ROLL CALL VOTE

Vice-Mayor Trigg:	Yes
Councilmember Presley:	Yes
Councilmember Bailey:	Yes
Mayor Harris:	Yes
Councilmember Jones:	Yes

Councilmember Holt: Yes

ADJOURN

Mr. Presley made a motion to adjourn the meeting at 9:17 p.m. Mr. Bailey seconded the motion. The motion passed unanimously by voice vote.

Don Harris, Mayor

Lesley Catron, Town Clerk

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE 14TH DAY OF MAY, 2019.

A RESOLUTION TO AMEND THE 2018/2019 FISCAL YEAR BUDGET IN ORDER TO APPROPRIATE \$150,000.00 TO THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE TOWN OF BLUEFIELD, VIRGINIA

WHEREAS a public hearing concerning the budget amendment described in this resolution was held before the Council of the Town of Bluefield, Virginia on May 14, 2019, at 7:15 p.m. in the Council Chambers of the Town Hall in Bluefield, Virginia after notice was published on May 3, 2019, in the Bluefield Daily Telegraph, a newspaper of general circulation in Bluefield, Virginia.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia amends the 2018/2019 Fiscal Year Budget of the Town of Bluefield, Virginia as follows: \$150,000.00 is hereby moved and appropriated from the "From Prior Years Reserves" Revenue Budget Line to the "IDA Expenses" Expenditure Line.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the aforesaid budget amendment is being made to effectuate an appropriation of funds to the IDA for the purposes of promoting economic development within the corporate limits of the Town of Bluefield.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Town Manager of the Town of Bluefield, Virginia and the Treasurer of the Town of Bluefield, Virginia are expressly authorized to take any further actions necessary to lawfully finalize the aforesaid budget amendment and the aforesaid appropriation of funds.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia adopts this resolution on this 14th day of May, 2019, and such resolution shall be effective upon adoption.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia authorizes Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, to execute this resolution on behalf of said Council.

IT IS SO RESOLVED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this 14th day of May, 2019.

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May 14, 2019

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May 14, 2019

May 14, 2019

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RESULT OF VOTE.

AYES

NAYES

ABSTENTIONS

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY

DONALD R. HARRIS, MAYOR

DATE _____

TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST

LESLEY CATRON, TOWN CLERK

DATE _____

TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE 28TH DAY OF MAY, 2019.

AN ORDINANCE ADOPTING A DEED OF LEASE BETWEEN THE TOWN OF BLUEFIELD AND SUNSET FIBER, LLC TO PERMIT SUCH LESSEE THE ABILITY TO MAINTAIN A POINT OF PRESENCE IN BLUEFIELD, VIRGINIA, AND TO PERMIT SUCH LESSEE THE ABILITY TO PROVIDE BROADBAND SERVICES TO THE TOWN OF BLUEFIELD

WHEREAS, the Town of Bluefield, Virginia desires to let a small portion of its Town Hall in Bluefield, Virginia for the purpose of permitting a lessee the ability to maintain a Point of Presence in Bluefield, Virginia, and to permit such lessee the ability to provide broadband services to the Town of Bluefield, Virginia; and

WHEREAS, pursuant to §§ 15.2-2100 and 15.2-2101 of the Code of Virginia (1950) as amended, an invitation for bids regarding the desired lease with the Town of Bluefield, Virginia and this ordinance was duly published on the 15th day of February, 2019, and on the 23rd day of February, 2019, in the Bluefield Daily Telegraph, a newspaper having general circulation in Bluefield, Virginia; and

WHEREAS, pursuant to § 15.2-2102 of the Code of Virginia (1950) as amended, on the 12th day of March, 2019, the Council of the Town of Bluefield, Virginia, by an affirmative majority vote, accepted a bid from Sunset Fiber, LLC for the desired lease with the Town of Bluefield, Virginia, which included a proposed lease, attached hereto, and identified as "A DEED OF LEASE BETWEEN TOWN OF BLUEFIELD AND SUNSET FIBER, LLC"; and

WHEREAS, pursuant to § 15.2-1800(B) of the Code of Virginia (1950) as amended, a public hearing regarding the adoption of this ordinance was held on the 14th day of May, 2019, before the Council of the Town of Bluefield, Virginia, after notice of such public hearing was duly published on the 24th day of April, 2019, and on the 2nd day of May, 2019, in the Bluefield Daily Telegraph, a newspaper having general circulation in Bluefield, Virginia.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia approves, accepts, and adopts the lease attached hereto and identified as "A DEED OF LEASE BETWEEN TOWN OF BLUEFIELD AND SUNSET FIBER, LLC"

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Town Manager of the Town of Bluefield, Virginia shall execute the lease attached hereto and identified as "A DEED OF LEASE BETWEEN TOWN OF BLUEFIELD AND SUNSET FIBER, LLC" on behalf of the Town of Bluefield, a Virginia Municipal Corporation.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Town Manager of the Town of Bluefield, Virginia, upon executing the aforesaid lease on behalf of the Town of Bluefield, a Virginia Municipal Corporation, shall seek the formal written acceptance of such lease by Sunset Fiber, LLC, and such acceptance shall be made a part of the lease attached to this ordinance.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance is hereby adopted on this 28th day of May, 2019, and shall be effective upon adoption.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, shall execute this ordinance on behalf of the said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this 28th day of May, 2019.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

PUBLIC HEARING: May 14, 2019
 FIRST READING: May 14, 2019
 SECOND READING: May 28, 2019
 MOTION TO ADOPT MADE BY:
 MOTION TO ADOPT SECONDED BY:
 ADOPTION DATE: May 28, 2019
 EFFECTIVE DATE: May 28, 2019

Name of Councilman	Attendance (Present or Absent)	Vote (Aye, Nay, Abstain, or Absent)

RESULT OF VOTE

AYES

NAYES

ABSTENTIONS

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY _____ DATE _____
 DONALD R. HARRIS, MAYOR
 TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST

_____ DATE _____
 LESLEY CATRON, TOWN CLERK
 TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

A DEED OF LEASE BETWEEN TOWN OF BLUEFIELD AND SUNSET FIBER, LLC

THIS DEED OF LEASE, hereinafter this lease, is made and entered into on the _____ day of _____, 2019, by and between SUNSET FIBER, LLC, a Delaware Limited Liability Company, hereinafter "Sunset", and the TOWN OF BLUEFIELD, a Virginia Municipal Corporation, hereinafter "Bluefield".

WITNESSETH:

That for and in consideration of the amount of ONE DOLLAR AND 00/100 (\$1.00) and the terms, promises, covenants, and mutually equivalent benefits described in this lease, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Sunset and Bluefield agree to all of the following:

1. Bluefield does hereby let and demise unto Sunset a physical space in its municipal building located at 112 Huffard Drive in Bluefield, Virginia, measuring approximately 24' X 24', for the purposes of permitting Sunset the ability to maintain a Point of Presence ("PoP") in Bluefield, Virginia, and for the purposes of permitting Sunset the ability to provide broadband services to Bluefield.
2. The term of this lease shall consist of an Initial Term and an Extended Term. The Initial Term of this lease shall be for five (5) years from the date this lease is accepted by ordinance of the Council of the Town of Bluefield, Virginia. At the end of the said Initial Term, this lease shall automatically renew for an Extended Term of an additional five (5) years. With ninety (90) days written notice prior to the end of the said Initial Term, either Bluefield or Sunset may renegotiate or terminate this lease.
3. Sunset shall be permitted (i) subject to the approval of the Town Manager of Bluefield, to erect any structure on the premises subject to this lease that is necessary to maintaining the aforesaid PoP and (ii) rights of ingress, egress, and regress to install, maintain, remove, and repair the aforesaid PoP and the aforesaid structure. Sunset shall in no way interfere with the normal operations of Bluefield. In the event Sunset desires to enter the premises subject to this lease for the aforesaid purposes, then Sunset shall make a good faith effort to notify the Town Manager of Bluefield prior to entry.
4. In lieu of a monthly rent being paid to Bluefield by Sunset during the term of this lease, Sunset shall provide Bluefield at least 200/20 MB of bandwidth for broadband services through the aforesaid PoP at no cost. During the term of this lease, if 200/20 MB of bandwidth is replaced by Sunset with a newer, faster, and equivalent standard, then such standard shall be provided to Bluefield.

5. Sunset shall have exclusive use and quiet enjoyment of the premises subject to this lease; however, in the event of an emergency, Bluefield may enter the premises subject to this lease to ensure protection against loss or damage to any property owned by Bluefield.
6. Any rights and privileges granted to Sunset by Bluefield pursuant to this lease shall not be assigned or subleased without the prior written consent of Bluefield. Such consent shall not be unreasonably withheld by Bluefield.
7. Unless otherwise abandoned by Sunset, any materials, equipment, or structures installed by Sunset upon the premises subject to this lease shall remain the property of Sunset and may, at Sunset's option, be removed by Sunset upon termination of this lease. Upon termination of this lease, Sunset shall surrender possession of the premises subject to this lease to Bluefield.
8. Sunset shall maintain reasonable liability insurance for its property and its activities on the premises subject to this lease, and shall include Bluefield as an additional insured. Furthermore, Sunset shall obtain casualty insurance coverage on its assets located on the premises subject to this lease.
9. Sunset assumes the risk of any and all liabilities that may arise from its use of the aforesaid PoP and its use of the premises subject to this lease. Furthermore, Sunset shall hold Bluefield, its agents, its employees, and/or its officers harmless from any and all damages and/or liabilities occurring upon the premises subject to this lease or occurring to Sunset's property on the premises subject to this lease, regardless of the cause. Sunset shall further indemnify Bluefield, its agents, its employees, and/or its officers for any and all damages and/or liabilities occurring upon the premises subject to this lease, and from Sunset's use of the aforesaid PoP.
10. This lease shall be interpreted in accordance with the laws of the Commonwealth of Virginia. Any litigation, mediation, arbitration, or the like arising from this lease shall occur in Tazewell County, Virginia.
11. In the event any provision of this lease is unenforceable, then such provision shall be severable, deemed to have been omitted, and all other provisions of this lease shall remain in full force and effect. In the event any provision of this lease is unenforceable, then Sunset and Bluefield may renegotiate the terms of this lease.
12. There are no third party beneficiaries to this lease, and the rights of Bluefield and Sunset under this lease are not subject to the consent of any third party.
13. This lease contains the entire agreement between Sunset and Bluefield concerning the premises subject to this lease.

WITNESS the following signatures and seals

**TOWN OF BLUEFIELD
A VIRGINIA MUNICIPAL CORPORATION**

BY _____ (SEAL)
MICHAEL WATSON

ITS: TOWN MANAGER

COMMONWEALTH OF VIRGINIA
COUNTY OF TAZEWELL, to wit:

The foregoing instrument was acknowledged before me by Michael Watson, the Town Manager of the Town of Bluefield, a Virginia Municipal Corporation, on this _____ day of _____, 2019

NOTARY PUBLIC
MY COMMISSION EXPIRES
REGISTRATION NUMBER: _____

ATTEST:

LESLEY CATRON, TOWN CLERK

COMMONWEALTH OF VIRGINIA
COUNTY OF TAZEWELL, to wit:

The foregoing instrument was acknowledged before me by Lesley Catron, the Town Clerk of the Town of Bluefield, a Virginia Municipal Corporation, on this _____ day of _____, 2019

NOTARY PUBLIC
MY COMMISSION EXPIRES
REGISTRATION NUMBER: _____

THIS DEED OF LEASE IS HEREBY AGREED TO AND ACCEPTED BY

SUNSET FIBER, LLC
A DELAWARE LIMITED LIABILITY COMPANY

BY _____ (SEAL)

NAME _____

ITS _____

STATE OF _____
COUNTY OF _____ to wit:

I, _____, a Notary Public in and for the County and State
aforesaid, do hereby certify that _____, the
_____ of Sunset Fiber, LLC, a Delaware Limited
Liability Company, who signed the foregoing deed of lease bearing date the _____ day of
_____, 2019, for Sunset Fiber, LLC, a Delaware Limited Liability Company, has this
day before me in my said County acknowledged the said deed of lease to be an official act of the said
Limited Liability Company.

Given under my hand and seal this _____ day of _____, 2019

NOTARY SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES _____
REGISTRATION NUMBER: _____

TOWN OF BLUEFIELD, VIRGINIA INVITATION FOR BIDS

PLEASE TAKE NOTICE that on March 12, 2019, during its regular meeting, the Council of the Town of Bluefield, Virginia will consider the acceptance of bids for a lease with the Town of Bluefield that will provide a physical space in the Town Hall located at 112 Huffard Drive in Bluefield, Virginia, measuring approximately 24' X 24', for the purposes of permitting a lessee organization the ability to maintain a Point of Presence ("PoP") in Bluefield, Virginia, and for the purposes of permitting such lessee organization the ability to provide broadband services to the Town of Bluefield through the aforesaid PoP. Any interested organizations are invited to submit bids to the Town of Bluefield for such a lease. All bids submitted must be (i) in writing; (ii) accompanied by a letter of commitment; (iii) substantially in the form of a lease proposed by the Town of Bluefield; and (iv) mailed or otherwise delivered to the Town Manager of the Town of Bluefield at 112 Huffard Drive in Bluefield, Virginia 24605 in a sealed envelope that reflects IFB #2019-001. To be considered, such bids must be received by 10:00 a.m. on March 7, 2019. The Council of the Town of Bluefield, Virginia will open and review all bids submitted for such a lease at their regular meeting on March 12, 2019, and, when appropriate, accept a bid and proceed to the ordinance adoption process with a public hearing. A copy of the full text of the proposed form of the lease and ordinance adopting such a lease is on file in the office of the Town Clerk of the Town of Bluefield, and available for review therein at the Town Hall at 112 Huffard Drive in Bluefield, Virginia, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. Any questions may be directed to Lesley Catron, the Town Clerk of the Town of Bluefield, Virginia at (276) 322 4626 or at compton@bluefieldva.org.

ADVERTISED IN BDT: FEBRUARY 15, 2019 & FEBRUARY 23, 2019
BID RECEIPT DEADLINE: MARCH 7, 2019 AT 10:00 A.M.
BIDS TO BE OPENED BY TOWN COUNCIL ON MARCH 12, 2019