

Craig Bryant, Mayor
Chris Witt, Vice Mayor
James Manspile
Marlon Rickman
Chris Petty



Buchanan Town Council
Thursday, October 6, 2022
Special Called Council
Meeting & Work Session 7:00
p.m.
Council Chambers
19753 Main Street
Buchanan, VA 24066

Conference call-in option: 701-802-5423 Access Code:3474425

AGENDA

A. ROLL CALL AND ESTABLISHMENT OF QUORUM

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

D. NEW BUSINESS / ACTION ITEMS / PUBLIC HEARINGS

1. Discussion of employee matter.
2. Action based on discussion.

E. ADJOURNMENT

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WORK SESSION AGENDA

- A. CHARLIE'S PLACE – 65A(2)22B – FOLLOW-UP DISCUSSION OF THE RELEASE AND WAIVER OF LIABILITY**
- B. DRAFT PARKING LOT LEASE – CARSON MEMORIAL BUILDING PARKING LOT**
- C. SOUTHVIEW LIFT STATION ACCESS DISCUSSION**
- D. BANNER DISCUSSION**
- E. BRIDGE STREET LEAK REPORT**
- F. BILLBOARD UPDATE**
- G. SOUTHVIEW DISCUSSION AND RESOLUTION**
- H. PUBLIC-PRIVATE PARTNERSHIP – TREE PLANTING AGREEMENT**

RELEASE OF LIABILITY

The landowner named below (referred to as "I" or "me") desires to have the Town of Buchanan, Virginia (the "Town"), through its agents and employees, remove a certain boulder from the driveway on their property (the "Activity") identified by tax map number 65A(2)22B (the "Premises").

In consideration of the Town's services in removing the boulder from the my driveway, and in recognition of the Town's reliance hereon, I agree to all the terms and conditions set forth in this agreement (this "Release").

1. I am aware and understand that the the Activity is a potentially dangerous activity that involves the risk of property damage as well as serious injury. I am aware that in carrying out the Activity, the Town will need to use equipment, potentially multiple pieces of heavy equipment, that has the potential of causing property damage to the Premises. I acknowledge that these risks may result from or be compounded by the actions, omissions, or negligence of Town employees or others. I understand that the Town cannot guarantee that I or the Premises will not be injured or damaged in carrying out the Activity. NOTWITHSTANDING THESE RISKS, I ACKNOWLEDGE THAT I AM VOLUNTARILY ASSENTING TO THE TOWN'S CARRYING OUT OF THE ACTIVITY WITH KNOWLEDGE OF THE RISKS INVOLVED. I HEREBY AGREE TO ACCEPT AND ASSUME ALL RISKS OF INJURY, PROPERTY DAMAGE, AND/OR FINANCIAL LOSS ARISING THEREFROM, WHETHER CAUSED BY THE ORDINARY NEGLIGENCE OF THE TOWN OR OTHERWISE.

2. I hereby expressly waive and release any and all claims, now known or hereafter known, against the Town and its officers, managers, employees, and agents (collectively, "Releasees") on account of personal or psychological injury, property damage, or financial loss arising out of or attributable to the carrying out of the Activity, whether arising out of the ordinary negligence of the Town or any Releasees or otherwise. I covenant not to make or bring any such claim against the Town or any other Releasee, and forever release and discharge the Town and all other Releasees from liability under such claims.

3. This Release constitutes the sole and entire agreement of the Town and me with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. If any term or provision of this Release is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Release or invalidate or render unenforceable such term or provision in any other jurisdiction. This Release is binding on and shall inure to the benefit of the Town and me and our respective successors and assigns. All matters arising out of or relating to this Release shall be governed by and construed in accordance with the internal laws of the Commonwealth of Virginia without giving effect to any choice or conflict of law provision or rule. Any claim or cause of action arising under this Release may be brought only in the state

courts located in Botetourt County, Virginia or the Federal Western District of Virginia located in Roanoke, Virginia, and I hereby consent to the exclusive jurisdiction of such courts.

[SIGNATURE PAGE FOLLOWS]

BY SIGNING, I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTOOD ALL OF THE TERMS OF THIS RELEASE AND THAT I AM VOLUNTARILY GIVING UP SUBSTANTIAL LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE THE TOWN.

Signed:

Printed Name:

Address:

Date: _____

PARKING LOT LEASE

PARKING LOT LEASE, dated for reference as of ____ October, 2022, by and between the Buchanan Rescue Squad Incorporated, a Virginia nonstock corporation (herein referred to as "Owner"), and the Town of Buchanan, Virginia, a political subdivision of the Commonwealth of Virginia (herein referred to as "Tenant").

WITNESSETH:

1. Premises. Subject to and in accordance with this Agreement, Owner leases to Tenant that certain parking lot area situated on Main Street between Washington Street and Bedford Street in Buchanan, located on portions of Tax Map Parcels 65A(5)15, 65A(5)16, 65A(11)E-F-G (herein referred to as the "Premises").

2. Use of Premises. The Premises may be used for the purpose of parking motor vehicles and pedestrian use during Town events. Tenant shall not allow use of the Premises for any illegal purpose. Tenant shall comply with all governmental rules, orders, regulations or requirements relating to the use and occupancy of the Premises.

3. Lease Term. The term of this lease shall begin on _____, 2022 and shall continue until _____, 202__ ("Lease Term"). The expiration or termination of the Lease Term shall not terminate or otherwise extinguish any liability or obligation (including, without limitation, indemnification obligations) of either party hereto involving any act, omission, breach or default occurring prior to such expiration or termination.

4. Rent. During the Lease Term, Tenant shall pay Owner rent for the Premises ("Rent") in the amount of _____ Dollars (\$ _____) per year.

5. Removal of Debris: Delivery of Possession. Prior to the beginning of the Lease Term, Owner shall remove or caused to be removed any personal property or other debris currently located on the Premises. The taking of possession of the Premises by Tenant shall constitute acknowledgment by Tenant that the Premises were then in good condition and as represented by Owner.

6. Quiet Enjoyment. Subject to the performance by Tenant of this Lease and subject to the terms and conditions elsewhere herein contained, Owner covenants that Tenant, upon performing all its obligations hereunder, shall have quiet and peaceable possession of Premises during the term hereof.

7. Alterations, Repairs and Maintenance by Tenant. A. Tenant shall make no changes, improvements or alterations to the Premises without the prior consent of Owner. Unless otherwise agreed by the parties, any such changes, improvements and alterations and all repairs to the Premises, if any, made by Tenant shall remain on the Premises and shall, at the option of Owner, become the property of Owner without payment therefor upon the expiration or sooner termination of the Lease Term.

B. Tenant covenants throughout the Lease Term, at its sole cost and expense, to take good care of the Premises and to keep the same in at least the same condition that existed at the commencement of the Lease Term, except only for wear and tear incident to the ordinary use of the Premises for the purposes permitted in this Agreement.

8. Real Estate Taxes. The Owner shall pay all real estate property taxes or special assessments assessed against or levied upon the Premises.

9. Owner's Access to and Use of Premises. Owner may inspect the Premises at all reasonable times and enter the same for the purpose of cleaning, repairing, altering, improving or exhibiting the same, but nothing herein shall be construed as imposing any obligation on Owner to perform any such work.

10. Insurance. Tenant shall obtain, pay for, and at all times during the term hereof maintain in force commercial general liability insurance to fully insure against liability for injury to persons or damage to property, arising or occurring on the Premises, with limits of liability of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate. The policy shall list Owner as an additional insured.

11. Liens. Tenant shall not suffer or permit any lien to be filed against the Premises or Tenant's leasehold interest, by reason of work, labor, services or materials performed or supplied to Tenant or anyone holding the Premises or any part thereof under Tenant. If any such lien is filed, Tenant shall cause the same to be discharged of record at least (30) days prior to any scheduled lien foreclosure sale.

12. Notices. All notices to the parties hereto shall be delivered by hand, via certified mail return receipt requested, via overnight express delivery, via facsimile or via electronic mail, and shall be deemed effective upon delivery if by hand and upon confirmation of receipt thereof by other means, to the addresses listed on the signature page hereto until such addresses are changed by notice in writing to the other party.

13. Breach or Default by Tenant. Owner may terminate this Lease if there is a material non-monetary, breach or non-compliance by Tenant with any provision of this Lease, and should Tenant fail to cure such non-compliance after receipt of written notice from Owner. If the breach is cured by Tenant prior to the date specified in such notice, this Lease shall not terminate. If Tenant fails to cure the breach prior to the date specified in such notice, Owner shall be entitled to immediate possession of the Premises. Notwithstanding the foregoing, if at any time during the Term of this Lease, either party learns that Tenant's use of Premises is not permitted pursuant to any applicable law, governmental regulation, code or ordinance, Owner shall have the right to terminate this lease immediately upon providing notification to Tenant of the same.

14. Surrender of Premises. Tenant, at the expiration or sooner termination of the Lease Term, shall quit and surrender the Premises. The Premises, when surrendered, shall be in a condition that is at least equivalent to the condition of the Premises at the commencement of the Lease Term, except only for wear and tear incident to the ordinary use of the Premises for the purposes permitted in this Agreement. If Tenant lawfully holds over after the expiration of the Lease Term, such tenancy shall be a month to month tenancy. During such tenancy, Tenant agrees to pay Owner the same rate of rent as provided herein for the final year of this Agreement, and to be bound by all of the terms, covenants and conditions herein specified.

15. Miscellaneous

(a) Non-Waiver. No failure of Owner to insist upon the strict performance of any provision of this Agreement shall be construed as depriving Owner of the right to insist on strict performance of such provision or any other provision in the future. No waiver by Owner of any provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by Owner. No acceptance of rent or of any other payment by Owner from Tenant after any default by Tenant shall constitute a waiver of any such default or any other default. Consent by

Owner in any one instance shall not dispense with necessity of consent by Owner in any other instance.

(b) Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced as written to the fullest extent permitted by law.

(c) Choice of Forum/Jurisdiction; Governing Law. The parties hereby consent to the jurisdiction and venue of the courts of the Commonwealth of Virginia, specifically to the courts of the Botetourt, Virginia, in connection with any action, suit or proceeding arising out of or relating to this Lease. This Lease shall be governed by and construed under the laws of the Commonwealth of Virginia.

(d) Entire Agreement. This document contains the entire and integrated agreement of the parties and may not be modified except in writing signed and acknowledged by both parties.

(e) Remedies Cumulative. The specified remedies to which Owner may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Owner may lawfully be entitled in case of any breach or threatened breach by Tenant of any provision of this Agreement. In addition to the other remedies in this Agreement provided, Owner shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions, or provisions of this Agreement.

(f) Waiver of Right to Jury Trial. Owner and Tenant hereby waive the right to trial by jury in any action, proceeding or counterclaim brought by either party against the other arising out of this Lease, the relationship of Owner and Tenant, Tenant's use or occupancy of the Premises, and or any injury or damage on or about the Premises.

[Signature page follows.]

WITNESS the following signatures:

OWNER:

By: _____

Name: _____

Title: _____

Address for notice:

TENANT:

The Town of Buchanan, Virginia

By: _____

Name: _____

Title: _____

Address for notice:

19753 Main Street
Buchanan, Virginia 24066
Attn: Town Manager

Agreed as to form:

Town Attorney



VDOT Land Use Permit	\$110
Inboden – 2 days of Tech Support for this leak	\$617
(Inboden assisted in finding leaks since July 3 – Remainder of funds was \$1,543)	
Boxley Ready Mix	\$1,099
Core & Main (parts)	\$221.26
Total	\$2,047.26

Bridge Street Leak Expenses

- Value of Virginia Rural Water Association – 3 technicians from July 6, 7, 8, 11 and 12th. They found the Lowe Street Leak and knew something was not right at Bridge Street - \$20,000 for the time they were here
- Inboden's total fee for the tech support from 7/3-7/9 was \$2,160.

Process of Bridge Street Leak

- VRWA, PW, and Inboden searched by Mr. Stull's house, Rt 43, and Bridge Street for water leaks between July 6, 2022 and the day it was found
- Citizens reported the leak on Bridge Street on July 12, 2022
- Staff evaluated the leak and brainstormed the approach to fix it
- VDOT came to the site and determined that it was a Town water leak and said that the paint on the railroad crossing would need to be fixed if the road was to be cut up to repair it
- Town Manager called Dispatch to inform that the road was going to be closed (Boyd Street to Bridge Street S to Main Street)



Bridge Street Leak

- PW turned off the water at the valve the water level of the leak dropped, and learned it was connected to a few buildings on Parkway Drive (the water line was Not on the Town's maps as verified by VRWA)
- PW Investigated the leak and found out which parts failed and what needed replacement
- VRWA monitored the area and tested the water for chlorine and found chlorine, which meant it was treated water (water leak)
- According to Engineer at VRWA, this was not a stormwater runoff issue but erosion from the years of the leak gradually getting larger. Runoff is a surface issue; this issue was underground
- Dominion Power came to the site on Wednesday, July 13, 2022 to assess the situation and planned to come back if needed to secure the power pole for repairs



Bridge Street Leak

- On Thursday, July 14, 2022, the PW team realized they could fill in the damaged area rather than cut the road and repair
- Staff assessed the break further and decided to replace the 2 nipples and the union
 - Ordered a new brass valve and (2 6-inch, 2-inch nipples and 1 union)
 - Old valve (blew holes out of one nipple and hole in the union)
 - The union/nipples were replaced and staff recommended brass for this due to the feedback by Core & Main (brass should be fine)
- Parts were ordered and picked up at Core & Main on Thursday, July 14, 2022
- July 14, 2022, conversation with VDOT to use VDOT's approved fill – Flow Fill rather than digging up the street



Bridge Street Leak Conclusion

- Flow Fill was ordered by Clerk, and Boxley Ready Mix pushed the Town of Buchanan to the top of their list due to the emergency.
- Fill was delivered by Boxley Ready Mix on Monday, July 18, 2022
- Boxley used 7.5 cubic feet to fill the space under the street, which stretched all the way to the railroad tracks
- PW Team added VDOT-approved stone and soil to fill the holes on the side of the street, and Monday, July 25, 2022 added seed and straw
- After the flow fill had time to set per instructions, PW reopened the road on Wednesday, July 21, 2022
- It's rained several times. PW has checked the spot several times. The repair has been checked regularly and is holding and there are no sink holes, no ruts, etc. It looks very good.



Summary of Decisions

- Not to cut up the road to fill, no paving needed later and no railroad paint replacement
- Not to move utilities – Dominion Power – much safer since it would be difficult to back hoe with the state of the soil on the side of the street
- Saved the Town thousands of dollars in staff time and money for supplies
- Using VRWA – work valued at \$20,000 and used as soon as recommended, and their help was much appreciated

