

**TOWN OF ABINGDON  
REGULAR COUNCIL MEETING  
MONDAY, MAY 4, 2009  
COUNCIL CHAMBERS - MUNICIPAL BUILDING**

A regular meeting of the Abingdon Town Council was held on Monday, May 4, 2009 at 7:30 p.m. in the Council chambers of the Municipal Building.

Mayor Morgan called the meeting to order and welcomed everyone in attendance.

**A. ROLL CALL**

Members of Council Present:	Edward B. Morgan, Mayor Dr. French H. Moore, Jr., Vice Mayor Mrs. Lois H. Humphreys Mrs. Cathy Lowe Mr. Jason N. Berry
Administrative/Town Staff:	Gregory W. Kelly, Town Manager Cecile M. Rosenbaum, Town Clerk Deborah Icenhour, Town Attorney Mark Godbey, Town Treasurer/Dir. Of Finance Jim Smith, Dir. Of Wastewater Operations/Town Eng. Garrett Jackson, Dir. Of Planning Kevin Worley, Dir. of Parks and Recreation Myra Cook, Dir. Of Tourism Jim Cowart, Dir. of Econ. Dev/Grants Writer John Dew, Dir. Of Public Services/Construction Floyd Bailey, Dir. of Information Technology Tony Sullivan, Chief of Police Rob Case, IT Department Joey Burke, Chief of Police John McCormick, Asst. Fire Chief Regina Carmack, Horticulture Department Tenille Montgomery, Administrative Assistant Sean Taylor, Planning Assistant
Visitors:	Lemont Dobson, Cameron Belle, Courtney Bledsoe, Michael Wartella, Debra McCown, Rob Jones and others.

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**B. PLEDGE OF ALLEGIANCE**

Tony Sullivan, Chief of Police led the Pledge of Allegiance.

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At this time, Mayor Morgan asked Tony Sullivan, Chief of Police to come forward and introduce the newest members of the Abingdon Police Department. They are:

- John Carty
- Justin Greer
- Cortez Watson

Mayor Morgan welcomed all three (3) gentlemen to the Town of Abingdon and congratulated them on their recent graduation from the Law Enforcement Academy.

### **C. APPROVAL OF MINUTES**

- April 6, 2009 Work Session Meeting
- April 6, 2009 Regular Meeting
- April 7, 2009 Budget Work Session
- April 13, 2009 Budget Work Session

**On motion of Mrs. Lowe, seconded by Dr. Moore, the Council approved the minutes of the April 6, 2009 work session meeting, the April 6, 2009 regular meeting, the April 7, 2009 budget work session meeting and the April 13, 2009 budget work session meeting with one correction to page 77. Page 77 should be corrected to show Property Acquisition of \$2.18M not \$2.8M.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Lowe</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

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### **D. SPECIAL EMPLOYEE ACKNOWLEDGEMENTS**

- Mr. Kelly recognized Regina Carmack, employee of the Horticulture Department, and thanked her for her five (5) years of service to the Town of Abingdon.
- Mr. Kelly also recognized Town employees, Sean Taylor and Tenille Montgomery, for their recent graduation from the Washington County Chamber of Commerce Leadership Program.

### **E. PETITIONS AND PUBLIC HEARINGS**

#### **1. Public Hearing - Proposed Amendments.**

- **Amend and Reenact Article 26, Definitions to include Distribute, Distributor, and Microbrewery within the definitions of the Town of Abingdon Zoning Ordinance.**
- **Amend and Reenact Article 8, Section 8-2B Special Uses in the Old and Historic District to include Distributor and Microbrewery.**
- **Amend and Reenact Sections 10-1, 11-1, and 12-1, Permitted Uses by Right, in the B-1 Limited Business District, B-2 General Business District and B-3 Central Business District to include Distributor and Microbrewery as Permitted Uses by Right.**

Mayor Morgan asked Garrett Jackson, Director of Planning to come before the Council to explain the need for the proposed amendments and the public hearing. Mr. Jackson explained that the applicants requested that the uses microbrewery and distributor be added to the B-1, B-2 and B-3 districts as permitted uses by right and as a special use in the Old and Historic District (OH). Mr. Jackson indicated that the Town Zoning Ordinance would also need to be amended to include these terms. Mr. Jackson further indicated that the matter had been heard before the Planning Commission and it was their recommendation that the amendments be approved.

Mayor Morgan declared the public hearing open and asked if anyone wanted to speak to the matter.

Cameron Bell, 218 Mason Place, Abingdon came before the Council members on behalf of Virginia Highlands Brewery Company to ask for their support in allowing the amendments to the Town Zoning Ordinance. Mr. Bell introduced his partner, Dr. Bircher and gave a summary of their proposed microbrewery business and their desire to locate the business in the Town of Abingdon.

Mr. Morgan asked if anyone else wished to speak to the matter and hearing no further speakers, declared the public hearing closed.

**On motion of Dr. Moore, seconded by Mr. Berry, the Council concurred with the recommendation of the Planning Commission to approve the requested amendments to the Town's Zoning Ordinance as set forth by the Director of Planning and further, as the Planning Commission heard no objections at their previously held public hearing, that this matter shall be approved on first reading dispensing with the need for a second reading.**

**The roll call vote was as follows:**

**Mr. Berry                      Aye**

**Mrs. Lowe**            **Aye**  
**Mrs. Humphreys**   **Aye**  
**Dr. Moore**           **Aye**  
**Mayor Morgan**      **Aye**

**The motion carried.**

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**2. Public Hearing - Consideration of Grant for Police Department.**

**Consideration of public input regarding an application by the Police Department of the Town of Abingdon for a Community Policing Enhancement grant, #2009-F3788-VA-SU, from the U.S. Department of Justice, Recovery Act – Justice Assistance Grant (JAG) Program.**

Mayor Morgan asked Tony Sullivan, Chief of Police to come before the Council to give background information about the need for the public hearing on the proposed grant he is seeking from the U.S. Department of Justice. Chief Sullivan explained that one of the requirements prior to awarding of this grant funding was for the requesting locality to hold one public hearing to solicit input on the use of the funds. Chief Sullivan indicated that he intended to use the funds to purchase two (2) additional segways for his department as they have quickly become effective patrol tools for the Departments' officers. Chief Sullivan indicated that no formal action was required by Council after the close of the hearing.

Mayor Morgan declared the public hearing open and asked if anyone wished to speak to the matter. Hearing no indications of persons wishing to speak, Mayor Morgan declared the public hearing closed.

Mayor Morgan complimented Chief Sullivan on the success of the segways and their appearance at the Earth Day celebration.

Mr. Berry commented about the use of the segways on the Virginia Creeper Trail.

**No action was required by Council on this matter.**

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**3. Public hearing - Consideration of Proposed Budget for Fiscal Year 2009/2010**

Mr. Kelly informed the Council members that he had requested an addition of one line to the proposed Budget Ordinance and that change included the addition of #10. *Meals and Lodging tax rate of 7% shall remain unchanged.* Mr. Kelly indicated that was the only change to the ordinance, and did not change the numbers in any way.

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Mayor Morgan declared the public hearing open and asked if anyone wished to speak to the proposed FY 2009/2010 budget. Hearing no indications of anyone wishing to speak, he declared the public hearing closed.

**On motion of Mrs. Humphreys, seconded by Mrs. Lowe, the Council approved the FY 2009/2010 proposed budget with the addition of #10. *Meals and Lodging tax rate of 7% shall remain unchanged* and with the proposed tax rates as listed and confirmed that the second reading of the proposed budget ordinance will be held at the regular June Council meeting.**

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Lowe</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

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#### **4. Public Hearing – Consideration of Amendment of Ordinance.**

**AN ORDINANCE OF THE COUNCIL OF THE TOWN OF ABINGDON TO AMEND CHAPTER 66, SUBSECTIONS 66-1, 66-2 AND 66-43 OF THE CODE OF THE TOWN OF ABINGDON, VIRGINIA, TO ESTABLISH SEMI-ANNUAL COLLECTION OF LOCAL TAXES AND TO AMEND THE DUE DATES FOR COLLECTION OF REAL PROPERTY TAXES AND PERSONAL PROPERTY TAXES.**

Mayor Morgan asked Deb Icenhour, Town Attorney, to come before the Council members to provide information on the proposed Ordinance to amend the schedule of tax collection in the Town of Abingdon.

Mrs. Icenhour informed the Council that Washington County, Virginia had already adopted an Ordinance to establish the semi-annual collection of local taxes and that it was in the Town's best interest to follow the same schedule as the County. Mrs. Icenhour indicated that this Ordinance would take effect on January 1, 2010 and thereafter taxes would be due on May 20<sup>th</sup> and November 20<sup>th</sup> for real property and on November 20<sup>th</sup> for personal property.

Mayor Morgan declared the public hearing open and asked if anyone wished to speak to the matter. Hearing no indications of speakers, he declared the public hearing closed.

**On motion of Mrs. Lowe, seconded by Mr. Berry, the Council approved the Ordinance to Amend Chapter 66, Subsections 66-1, 66-2 And 66-43 Of The Code Of The Town Of Abingdon, Virginia, To Establish Semi-Annual Collection Of Local Taxes And To Amend The Due Dates For Collection Of Real Property Taxes And Personal Property Taxes as presented.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Lowe</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

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#### **F. CONSIDERATION OF ANY BIDS.**

- 1. Consideration of bids for the construction of two (2) Rhon towers; one tower will be placed on the campus of Virginia Highlands Community College and one will be placed at the Wolfe Creek Wastewater Treatment Facility.**

Mayor Morgan asked Floyd Bailey, Director of Information Technology to come before the Council to provide information about the bids for the construction of the towers.

Mr. Bailey indicated that he had received a total of five (5) responses to his request for bids and that he was recommending the lowest bidder, Mark Nash Construction, LLC to receive the bid award. He indicated that one tower would be located on a designated site on the campus of the Virginia Highlands Community College and the other tower would be located at Wolfe Creek Water Reclamation Facility.

**On motion of Dr. Moore, seconded by Mrs. Lowe, the Council awarded the bid for the construction of two (2) Rohn Towers to the low bidder Mark Nash Construction, LLC for a bid amount of \$37,180.00.**

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Lowe</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

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**2. Consideration of bids for asphalt resurfacing work FY 2008-2009.**

Mayor Morgan asked John Dew, Director of Public Services/Construction to come before the Council members and provide information on the bids for the remainder of the Town's asphalt resurfacing work.

Mr. Dew appeared before the Council members and confirmed that the bid was for asphalt work that remained in the 2008/2009 budget. He indicated that he had received two (2) bids and he recommended the bid be awarded to the low bidder W-L Construction and Paving, Inc.

**On motion of Mrs. Lowe, seconded by Mrs. Humphreys, the Council awarded the bid for asphalt resurfacing work remaining in the FY 2008/2009 budget to W-L Construction and Paving, Inc. for the amount of \$289,762.80.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Lowe</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

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**G. REPORTS FROM THE TOWN MANAGER**

**1. Presentation and update on the *Heartwood* Artisan's Center project.**

Rob Jones, Project Manager, for the *Heartwood* Artisan Center appeared before the Council members to provide an update and status of the project. Mr. Jones reported that a Commission had been established, namely the Cultural Heritage Commission, to manage the *Heartwood* project. Mr. Jones explained that Senator William Wampler and Woody Crenshaw, Vice Chair of Round the Mountain, were members of the committee. He explained that the funding for the project was in place and they were actively working with the Virginia Highlands Community College Board on a lease for the property on which the Center will be constructed. Mr. Jones indicated that the building plans for the 28,000 sq ft facility are complete and that bids for the project should be advertised in the next few weeks. Mr. Jones reported the construction time is projected to take twenty-two (22) months and indicated that overall the project is on track and progressing.

**No action was required by Council on this matter.**

- 2. Consideration of request for authorization to hold a public hearing for purpose of borrowing funds for acquisition of property and for disposition of property.**

Mr. Kelly informed the Council that he was seeking authorization to hold the public hearing for the purpose of borrowing funds for acquisition of property that was the result of the Clifton Stewart v. Town of Abingdon lawsuit and further to fund upcoming fiscal year 2009/2010 capital improvement projects and possible refinance of existing debt.

**On motion of Mrs. Lowe, seconded by Mrs. Humphreys, the Council authorized the Town Manager, Greg Kelly, to schedule a public hearing for the June 1, 2009 regular Council meeting to receive public comment concerning the Town's interest and need for borrowing funds for several capital improvement projects and for the acquisition of 59.29 acres of real property which was the subject of the Clifton Stewart v. Town of Abingdon lawsuit and further authorized the Town Manager, at such time as he sees fit, to schedule another public hearing for the purpose of the disposition of all or any portion of the 59.22 acre tract of real property to be acquired as a result of the settlement of the Clifton Stewart lawsuit.**

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Lowe</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

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- 3. Consideration of reconvening of Town Sports Complex Committee to further study the location and scope of additional sports fields in Abingdon.**

Mr. Kelly asked the Council members to consider reconvening the Town's prior appointed 3 members of the Sports Complex Facility Committee so they can resume and continue with their search for potential site for a location of a Sports Complex Facility.

**On motion of Mr. Berry, seconded by Mrs. Lowe, the Council asked that prior appointees, Bob Howard, Eddie Icenhour, and Dan Mathews reconvene as the Sports Complex Committee and continue with their search for a suitable site for the location of a Sports Complex Facility and report back to Council as they deem appropriate.**



**The roll call vote was as follows:**

**Mr. Berry**            **Aye**  
**Mrs. Lowe**           **Aye**  
**Mrs. Humphreys** **Aye**  
**Dr. Moore**           **Aye**  
**Mayor Morgan**   **Aye**

**The motion carried.**

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At this time, Greg Kelly, Town Manager informed the Council and the public that the Town had received confirmation of an award of stimulus funds in the amount of \$379,000. These funds will be designated for the construction of a turbine at the Wolfe Creek Water Reclamation Facility. Mr. Kelly further indicated that he will need authorization from the Council to sign the stimulus fund award documents and that the Town will have to pay the costs of the engineering services associated with this construction. Mr. Kelly informed the Council that these engineering services have been projected to range approximately \$40,000 and those funds will most likely be available from the budget already in place for the Wastewater Treatment Facility.

**On motion of Dr. Moore, seconded by Mrs. Lowe, the Council authorized Town Manager, Greg Kelly to sign any and all stimulus funding award documents and further authorized Mr. Kelly to approve the use of Town funds from the sewer contingency fund as necessary for the engineering costs associated with the construction of the turbine project at the Wolfe Creek Water Reclamation Facility.**

**The roll call vote was as follows:**

**Mr. Berry**            **Aye**  
**Mrs. Lowe**           **Aye**  
**Mrs. Humphreys** **Aye**  
**Dr. Moore**           **Aye**  
**Mayor Morgan**   **Aye**

**The motion carried.**

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**H. PASSAGE OF RESOLUTIONS – None.**

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**I. FIRST READING OF ORDINANCES.**

1. **An Ordinance to make appropriation for the current expenses of the Town of Abingdon, Virginia. To fix a rate upon Real and Personal Property and Utility services for the Fiscal Year Beginning July 1, 2009 and ending June 30, 2010.**
2. **An Ordinance of the Council of the Town of Abingdon to Amend Chapter 66, Subsections 66-1, 66-2 And 66-43 of the Code of the Town of Abingdon, Virginia, to Establish Semi-Annual Collection of Local Taxes and to Amend the Due Dates for Collection of Real Property Taxes and Personal Property Taxes.**

*No action was required by Council on the foregoing items 11 and 12 as they were acted on by Council earlier in the meeting during the public hearing section.*

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#### **J. SECOND READING OF ORDINANCES – NONE**

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#### **K. UNFINISHED BUSINESS.**

1. **Consideration of review of new Abingdon Fire Department By-Laws – *(item continued from April 6, 2009 meeting)*.**

Mayor Morgan asked Deborah Icenhour, Town Attorney and Joey Burke, Fire Department Chief to come before the Council to provide an update on the draft of the By-laws for the Department.

Mrs. Icenhour explained that she had reviewed the by-laws thoroughly and revised them to bring them up to current standards and to incorporate changes requested by the Fire Department. Mrs. Icenhour explained that the first draft, which was presented to Council at their April meeting, was not acted on for adoption so that she could incorporate the changes requested by Council and bring them back at the May meeting.

Chief Burke confirmed that the Fire Department had reviewed the by-laws with the suggested changes and the amendments have been discussed with Council during their earlier 5:30 work session. Chief Burke indicated that he was comfortable with the by-laws, with the amendments suggested by Council and by the Town Attorney, and that he would be presenting the final version to the Fire Department Board at their next regular meeting.

**On motion of Mrs. Lowe, seconded by Mrs. Humphreys, the Council approved the adoption of the Fire Department By-laws contingent upon the Fire**

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**Department Board's final acceptance of the By-Laws with the amendments as provided by the Town Attorney.**

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Lowe</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

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**L. MATTERS NOT ON THE AGENDA – None.**

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**M. COUNCIL MEMBER REPORTS**

- Mr. Berry commented that the Tourism Advisory Committee will meet on May 13, 2009 to review the homepage of the Tourism website currently under construction. Mr. Berry also invited everyone to a tourism visioning session with Kitty Barker to be held at the Virginia Highlands Small Business Incubator on May 13<sup>th</sup> from 8:00 to 10:00 a.m.
- Mrs. Lowe asked the Council members to consider appropriating a \$1,000 donation to the fundraising efforts for the Van Keyser/Aday Theatre located at the Virginia Highlands Community College

**On motion of Mrs. Lowe, seconded by Mr. Berry, the Council appropriated \$1,000 from their contingency for the Van Keyser/Aday Theatre located at the Virginia Highlands Community College.**

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Lowe</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

- Dr. Moore commented on a recent donation to Ecumenical Faith in Action.
- Mayor Morgan pointed out the list of announcements printed at the end of the agenda.

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**N. MISCELLANEOUS BUSINESS AND COMMUNICATIONS**

**On motion of Mr. Berry, seconded by Dr. Moore, the Council went into closed session pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(1) for discussion and consideration of an appointment to the Board of Zoning Appeals.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Lowe</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

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**On motion of Dr. Moore, seconded by Mrs. Humphreys, the Council reconvened in regular session.**

**The roll call vote was as follows:**

<b>Mr. Berry</b>	<b>Aye</b>
<b>Mrs. Lowe</b>	<b>Aye</b>
<b>Mrs. Humphreys</b>	<b>Aye</b>
<b>Dr. Moore</b>	<b>Aye</b>
<b>Mayor Morgan</b>	<b>Aye</b>

**The motion carried.**

**The Town Clerk, Cecile Rosenbaum, read the following certification to be adopted by the Council members:**

*WHEREAS, the Council of the Town of Abingdon, Virginia has convened in a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions set forth in the Virginia Freedom of Information Act; and*

*WHEREAS, Sec. 2.2-3712(D) of the Code of Virginia, 1950, as amended, requires a certification by the Town Council that such closed meeting was conducted in conformity with Virginia law; and*

***NOW THEREFORE**, be it resolved, that the Council of the Town of Abingdon, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from an open meeting requirement by Virginia law were discussed in closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.*

**The certification was as follows:**

<b>Mr. Berry</b>	<b>I so certify</b>
<b>Mrs. Lowe</b>	<b>I so certify</b>
<b>Mrs. Humphreys</b>	<b>I so certify</b>
<b>Dr. Moore</b>	<b>I so certify</b>
<b>Mayor Morgan</b>	<b>I so certify</b>

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**On motion of Dr. Moore, seconded by Mrs. Lowe, subject to his acceptance, the Council appointed Charles Day, Architect to a three (3) year term on the Board of Zoning Appeals.**

**The roll call vote was as follows:**

|                       |            |
|-----------------------|------------|
| <b>Mr. Berry</b>      | <b>Aye</b> |
| <b>Mrs. Lowe</b>      | <b>Aye</b> |
| <b>Mrs. Humphreys</b> | <b>Aye</b> |
| <b>Dr. Moore</b>      | <b>Aye</b> |
| <b>Mayor Morgan</b>   | <b>Aye</b> |

**The motion carried.**

Mayor Morgan declared the meeting adjourned.

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Edward B. Morgan, Mayor

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Cecile M. Rosenbaum, Town Clerk