

August 12, 2008

**KILMARNOCK PLANNING COMMISSION
Tuesday, August 12, 2008
Kilmarnock Town Hall**

Regular Meeting Minutes

1. Call to Order

Chairman Booth called the regular meeting to order at 7:00 pm with the following members present:

Raymond Booth, Chair
Jane Ludwig
William Smith

Claudia Williamson- Vice Chair
Gary Anderson- Council Liaison
Steve Bonner

Members Absent:

Dave Reedy

Staff Present:

Lara N. Burleson, Town Manager
Chris Plummer, Assistant to Town Manager
Marshall Sebra, Town Planner
Paul C. Stamm, Town Attorney
Joan N. Kent –Assistant Clerk, Transcriber

2. Recognition of Guests:

Chairman Booth welcomed Kilmarnock residents, business owners and guests. Chairman Booth also welcomed new Council liaison, Gary Anderson to the Planning Commission.

3. Acceptance of the Agenda

ACTION: Vice-Chair Williamson made a motion to accept the August 12, 2008 Planning Commission Agenda as presented, seconded by Commission Member Smith; and carried unanimously.

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4. Public Forum

Chairman Booth opened the public forum by inviting members of the audience to voice their concerns or ideas in regards to planning issues. He limited each speaker to 3 minutes.

There was no one present who wished to participate in the public forum.

5. Public Hearings

There were no public hearings.

6. Minutes: Approve, Correct or Amend the Minutes for the July 8, 2008 Planning Commission Meeting.

ACTION: Commission Member Ludwig made a motion to approve the minutes for the July 8, 2008 Planning Commission Meeting as presented, seconded by Commission Member Smith; and carried unanimously.

7. Commissioner Comments

Commission Member Smith stated that it was his understanding that the Planning Commission was named as a party in a lawsuit and asked what the status was.

Town Attorney Stamm replied that the Planning Commission was not part of a lawsuit but that the Town of Kilmarnock and one Planning Commission member was.

Commission Member Smith asked if the report in the local paper naming the whole Planning Commission as a party in the lawsuit was incorrect.

Town Attorney Stamm replied that only one member of the Planning Commission had been legally served and named in the lawsuit. Mr. Stamm stated that if the rest of the members had not been served than they were not included.

Town Manager Burleson stated that the lawsuit had been filed but a court date had not been set. Ms. Burleson estimated that the case would be heard in September or October of 2008.

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8. Old Business/ Unfinished Business

There was no discussion under old business.

9. New Business

a. Chesapeake Bay Local Assistance Board Compliance Evaluation

Town Planner Sebra referred Planning Commission Member's to pages 11, 12, and 13 in their packets and stated that the Chesapeake Bay Local Assistance Board would be conducting a compliance evaluation on the Town of Kilmarnock's adopted Phase I Program for consistency with the Act and its regulations. Mr. Sebra stated that he had attended the meeting earlier in the day, which was held in Richmond, VA. Mr. Sebra said that the Town was given five recommended conditions to comply with by September 2009. Mr. Sebra reported that he had complied with several of those conditions already. Mr. Sebra stated that two of the revisions would have to be done by ordinance amendment, which would be brought before the Commission in the near future.

b. Annual Planning Commission meeting in September for the purpose of electing Chairman and Vice Chairman by the majority of the Commissioners present.

Chairman Booth stated that the nominations would be made at the September meeting.

c. Gazebo

Chairman Booth stated that he had partnered with Shawn Donahue to replace the gazebo at the playground by either donating or raising the money to do so. Mr. Booth said that he attended the Streets Committee Meeting where the issue surrounding the gazebo was fully aired and noted that what had transpired was unfortunate. Therefore, Mr. Booth said that he and Mr. Donahue wanted to be instrumental in replacing the gazebo. Mr. Booth said that he would draft a letter containing additional details and present it to the Town. Mr. Booth stated that he had a time table in mind of approximately 12 months but felt it could be done sooner if they did not get held up because of the donations.

d. Kilmarnock Inn

Chairman Booth stated that he had been approached by citizens from the community in regards to controversy over the functioning of Kilmarnock Inn and asked staff what the status was on the situation.

Town Attorney Stamm replied that the matter was under litigation at this time.

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Mr. Booth said that he had concerns over the status of the Inn and the dispute between Mr. Donahue and Mrs. Deihl.

Town Manager Burleson stated that it had come to her attention last week that Mr. Donahue had begun to operate a restaurant at the Kilmarnock Inn and was not zoned to do so. Ms. Burleson said that Mr. Donahue had to obtain a permit. Ms. Burleson stated that a letter was sent to Mr. Donahue informing him that if he continued to operate outside of the ordinance, he could be charged with a class two misdemeanor and fined up to \$1000.

Commission Member Bonner asked what it would entail for Mr. Donahue to get the permit that he needed.

Town Attorney Stamm replied that the situation was being worked on and would be presented at the next Planning Commission Meeting. Mr. Stamm said that he was on vacation in Nags Head when the letter to Mr. Donahue went out.

Commission Member Bonner asked if this was being worked out.

Both Town Manager Burleson and Town Attorney Stamm replied that it was.

Commission Member Bonner stated that Mr. Donahue had been instrumental in developing the Town and hoped that staff would work with him to get the matter resolved.

Town Manager Burleson said that she had a conversation with Mr. Donahue and advised him that the issue could be worked out.

Commission Member Smith asked if there was ever any up front discussion about a restaurant being operated at the Inn.

Town Attorney Stamm replied that there was not.

Town Planner Sebra stated that the recent letter sent to Mr. Donahue was a follow-up letter to the one that was sent a month before. Mr. Sebra said that Mr. Donahue never responded to the first one.

Chairman Booth said that whether or not Mr. Donahue was in violation would be determined by the interpretation of the code by the attorneys involved. Mr. Booth said that he broached the subject only because he had been approached by citizens concerning this issue and wanted to be able to give an intelligent response. Mr. Booth noted that his only concern was that he often attended seminars, weddings, and special dinner events, which were considered

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to be functions of a hotel and asked if that wasn't what the Kilmarnock Inn was doing.

Town Attorney Stamm replied when he got it worked out, he would let him know.

10. Adjourn

ACTION: Commission Member Smith made a motion to adjourn, seconded by Commission Member Anderson; and carried unanimously.

Meeting adjourned at 7: 30 pm

Prepared by:

Joan N. Kent

Mr. Raymond Booth, Chairman