

March 15, 2010

**KILMARNOCK TOWN COUNCIL  
Monday, March 15, 2010  
Town Hall  
Kilmarnock, VA**

**Regular Meeting Minutes**

**1. Call to Order:**

Mayor Smith called the Regular Meeting to order at 7:00 pm with the following Councilmembers present:

Dr. Curtis H. Smith, Mayor  
Paul Jones, Vice-Mayor  
Howard Straughan

Randy Moubray  
Rebecca Nunn

Members Absent:

Barbara Robertson  
John A. Smith

Staff Present:

Tom Saunders, Town Mgr.  
Marshall Sebra, Town Planner/Asst. Town Mgr.  
Paul C. Stamm, Jr., Town Attorney  
Jackie Blencowe, Town Clerk  
Joan N. Kent, Transcriber  
Michael S. Bedell, Chief of Police

Mayor Smith welcomed Kilmarnock residents, business owners, and guests. Mayor Smith led the recital of the Pledge of Allegiance.

**2. Acceptance and Approval of Agenda**

**ACTION: Councilmember Straughan made a motion to accept the agenda for the March 15, 2010 Town Council meeting as presented, seconded by Councilmember Moubray; and carried unanimously.**

**3. Minutes: Approve, Correct, or Amend Minutes of the Regular Town Council Meeting held February 22, 2010.**

**ACTION: Vice-Mayor Jones made a motion to**

March 15, 2010

**approve the February 22, 2010 Regular Town Council Meeting Minutes, seconded by Councilmember Nunn; and carried unanimously.**

#### **4. Public Comments and Presentations**

Mayor Smith invited members of the audience to address Council with any issues or concerns that were not scheduled for public hearing or discussion on the agenda. Mayor Smith asked that comments be limited to 3 minutes per person.

##### **A. Public Forum**

There were no participants in the public forum.

##### **B. Presentations**

Planning Commission Report: Councilmember Nunn, Council Liaison

Councilmember Nunn reported that a joint meeting between the Planning Commission and Town Council was held on March 9, 2010 at which the first reading of an ordinance adopting and enacting a new code and fee schedule for the Town of Kilmarnock was presented. The Planning Commission recommended that the second reading/adoption be held during the March 15, 2010, Town Council meeting. Mrs. Nunn advised that Engineer David Rigby gave an overview of the Town's Water and Sewer Master Plan and that it seemed as if the Town was going to have to come up with quite a bit of money to make necessary repairs and bring the system up to date.

#### **5. Public Hearing:**

A. Second Reading of an ordinance to adopt and enact a new, complete Town Code of Ordinances, Chapters 1 through 54, including a new fee schedule. Recodification and publishing were performed by Municipal Code Corporation to bring the existing Town Code into compliance with State law, to remove inconsistencies and obsolete provisions, and to include ordinances enacted since the codification of 1997.

1) Mayor Smith opened the public hearing.

2) Description of proposed ordinance and codification: Marshall Sebra

Town Planner/Asst. Town Manager Sebra reported that the Town had been working with Municipal Code Corporation to establish an updated version of the Town Code. Mr. Sebra stated that staff was seeking approval of an

March 15, 2010

ordinance to enact the new code and fee schedule for the Town. Mr. Sebra explained that over the years the Town had made text amendments to existing ordinances, created new ordinances, and disposed of those that were obsolete. Mr. Sebra said that the revised Town Code would include all of the modifications made since the last recodification, which was done in 1997.

Mayor Smith stated that in reviewing the new fee schedule, he noticed that several fees had gone up in price and wanted to know if the amounts were consistent with neighboring jurisdictions and towns.

Mr. Sebra advised that he did make comparisons with neighboring jurisdictions and found that the fees being suggested were consistent with theirs. Mr. Sebra said that the increase was consistent with today's prices. Mr. Sebra noted that most of the localities required the applicant to make and post their own advertisements for public hearings whereas the Town of Kilmarnock absorbed the cost and posted the advertisements for them to ensure that they were done properly.

### 3) Public Comments

There were no public comments.

### 4) Mayor Smith closed the public hearing.

### 5) Mayor Smith asked for Council discussion and/or action.

Councilmember Nunn asked if the ordinance proposed by her and passed by Council in November 2009 regarding the mandatory removal of trash, debris, etc. from properties was in the new code.

Town Manager Saunders replied that although Council had passed the ordinance he thought it had not made the deadline for the recodification process. Mr. Saunders advised that it was still a Town ordinance that could be enforced.

Councilmember Nunn stated that the ordinance was passed in November 2009 and that she went with staff in December of 2009 to identify the properties in violation. However, no letters have been sent to the property owners and she wanted to know why.

Mayor Smith asked that Council finish with the public hearing action and then discuss that issue.

**ACTION: Councilmember Straughan made a motion to adopt and enact the new, complete Town Code of Ordinances, Chapters 1 through 54,**

March 15, 2010

**including the new fee schedule, seconded by Councilmember Nunn; and carried unanimously.**

Mayor Smith advised Councilmember Nunn that she could continue with her issue regarding trash and debris on properties.

Councilmember Nunn advised that she was on First Avenue and noted that furnace parts were still behind one particular residence and stated that a letter was supposed to have been sent to that property owner. Mrs. Nunn wanted to know when letters were going to be sent out.

Town Manager Saunders replied that letters had been sent out but not to every single property that they had looked at. Mr. Saunders said that quite a number of the recipients had complied.

Councilmember Nunn wanted to know if a letter had been sent to the property owners on Claybrook, Irvington Road, Roseneath, and First Avenue.

Town Planner/Assistant Town Manager Sebra responded by advising Councilmember Nunn that the ordinance she had asked about was in the revised issue of the Town Code.

Town Manager Saunders replied that he stood corrected.

Mr. Sebra continued by saying that regarding the individual properties in question, he was fully aware of what they used to look like and what they looked like now, noting that improvements had been made. Mr. Sebra stated that he would have difficulty finding the Claybrook property in violation right now and didn't see anything that would warrant a letter of violation.

Councilmember Nunn stated that the garage on the Claybrook property was stuffed and there had been an issue of buzzards invading the property in the past. Mrs. Nunn felt that this was a safety issue.

Mr. Sebra replied that he was only allowed to enforce certain things under the code and a garage being stuffed with items was not a violation. Mr. Sebra said that there were certainly other properties that could be in violation and after he completed his training by the end of the month, he would feel more comfortable writing legal letters to remedy those situations.

Councilmember Nunn asked Mrs. Betty Jones of Claybrook Avenue who was seated in the audience if her trees were dying due to the seepage of oil from her neighbor's property.

March 15, 2010

Mrs. Jones stated that she felt that they were. Mrs. Jones said that there were several old batteries, old lawnmowers and outboard motors that had been sitting on the property for years. Mrs. Jones said that she could not understand why Mr. Sebra couldn't see the problem there.

Councilmember Nunn stated that she saw fire extinguishers, air tanks and other things that could be combustible that were sitting on that property next to Mrs. Jones' house. Mrs. Nunn reiterated that it was a safety issue.

Town Planner/Assistant Town Manager Sebra replied that it might be but according to what he had learned during class that day, he did not see any property maintenance violations.

Mrs. Betty Jones asked Marshall Sebra how long he had been working for the Town.

Mr. Sebra replied that he had been working for the Town for two years.

Mrs. Jones stated that he was fairly new when she came up to the Town Office to talk to him about this and wanted to know how long it was going to take to get things cleaned up.

Mayor Smith responded by saying that part of the problem had been that until the recent ordinance was passed, the Town did not have authority to enforce anything. Mayor Smith continued by saying that Mr. Sebra was attending a State education program to learn how to properly enforce this ordinance. Mayor Smith stated that an improper act committed by the Town could result in a lawsuit. Mayor Smith assured Mrs. Jones that the Town was committed to getting it done.

Mrs. Jones responded by asking how long it was going to take because this had been going on for eight or nine years.

Mayor Smith stated that he hoped to get it done within this year.

## **6. Committee Reports**

### **A. Water/Sewer Committee: Councilmember Smith, Chair**

#### **1) Report from March 3, 2010 Meeting.**

A copy of the committee meeting notes was included in each Councilmember's packet.

Town Manager Saunders reported that the committee discussed the work being done on the Community Block Grant. Mr. Saunders advised that Public Works Supervisor James Seagle and WWTP Chief Operator Pat

March 15, 2010

Chenoweth gave their reports and everything seemed to be in order. Mr. Saunders said that Mr. John Davis from Northern VA addressed the committee regarding extending water and sewer services to Boys Camp Road because he was interested in purchasing property there to develop. Town Manager Saunders stated that Mr. Bill Warren and Mr. Ben Burton addressed the committee regarding their project on East Church Street because they had discovered it was going to cost far more than anticipated to improve the water and sewer lines leading to the site. Mr. Saunders said that they were asking for relief from part or all of their connection and facility fees for the project.

## 2) Committee's Recommendation to Council.

Request from Mercer Place Apartments/Lancaster Partners Foundation for relief from part or all of the connection and facility fees for their project on East Church Street.

A copy of the request and proffer was included in each Councilmember's packet.

Mr. Bill Warren with Lancaster Partners Foundation stated that the Town's water and sewer lines did not come very close to their project site on East Church Street. Mr. Warren advised that closest lines were approximately 500 feet away and were only 4 inches in diameter. Mr. Warren advised that 4-inch lines would not provide the adequate water pressure of 1000 gallons per minute needed during a normal fire scenario. Mr. Warren advised that in order to have a good, safe project they would need to replace all of the 4-inch lines on Venable Drive and Gilbert Street with 8-inch lines. Mr. Warren stated that they would proffer to the Town the replacement of those lines, which Bay Design had estimated at a cost of \$120,000 if no other problems were uncovered along the way. Mr. Warren said that they were willing to spend the \$120,000 and in return would ask that the Town not charge on a per unit basis but on the basis of two buildings.

Mr. Warren provided Councilmembers with an infrastructure cost alternative chart from Bay Design Group and gave a brief presentation on it. (See Attachment) Mr. Warren said that he would like for Council to consider the approval of alternative #2. Mr. Warren provided Councilmembers with a pressure flow diagram taken from the Water and Sewer Master Plan showing that most of the Town had good water pressure with the exception of Venable Drive which could result in water pressure failure during fire events. Finalizing, Mr. Warren said that they would upgrade the lines and turn them over to the Town.

Mayor Smith asked Town Manager Saunders what the Water and Sewer Committee's consensus was.

March 15, 2010

Town Manager Saunders replied that they agreed to take it under consideration.

Vice-Mayor Jones asked how many feet of the Town's water and sewer line would be replaced.

Mr. Bill Burton replied that approximately 850 feet of existing 4-inch line would be upgraded to 8-inch line and then they would have to extend that another 500 feet from Gilbert Street to the project through an easement behind St. Andrews Church. Mr. Burton advised that the sewer line would tie to an existing line at the end of Gilbert Street and run through the easement behind the Church.

Councilmember Straughan commented to Mr. Warren they would have to extend the additional 500 feet of line anyway.

Councilmember Nunn replied they would have to do so only if hooking on to Town water which they did not have to do.

Councilmember Straughan stated that the Town could pay for the \$120,000 extension and then they could pay for the 500 feet they needed in order to hook on. Mr. Straughan asked what would be wrong with that.

Mr. Warren advised that there was nothing wrong with that as long as the Town could do it in a timely fashion which would have to be within the next year.

Mr. Burton stated that was a technical alternative. Mr. Burton said that if the Town decided to upgrade the water line on Venable and Gilbert to an 8-inch pipe then they could extend from that point with an 8-inch line to the property. Mr. Burton continued by saying that they could also extend from the existing 4-inch line with an 8-inch line to the property with the understanding that the Town would not be critical of the water services at the property if a fire happened and the pressures went negative. This could cause domestic services to be lost and there would be a chance of cross contamination of ground water getting into a water line.

Councilmember Straughan said that if the Town had paid the \$120,000 and had already run the lines would they have even made the proposal.

Mr. Warren replied no.

Councilmember Moubray stated that it was about a \$20,000 difference.

Mr. Warren replied that was if they didn't encounter any other problems while digging.

March 15, 2010

Councilmember Straughan stated that what he was trying to get away from was making a concession to them that was not being made to other organizations.

Councilmember Nunn replied that Lancaster Partners Foundation was a 501C3.

Councilmember Straughan replied that when the Town started making concessions for one group then they were going to be asked to make them for others.

Mr. Warren stated that if the work could be done at the same time that construction on the project was being done then they could be assured that it would be completed in a timely fashion.

Vice-Mayor Jones asked Mr. Burton if they had anticipated putting a fire hydrant on their property.

Mr. Burton replied that they were going to put a fire hydrant on Gilbert Street at the rear of St. Andrews Church and a new fire hydrant on the Mercer Place project. Mr. Burton advised that the two fire hydrants on Venable Drive were on a 4-inch line.

Councilmember Nunn stated that the Town would only be giving them \$20,000. Mrs. Nunn commented that this was something that the Town had to do eventually anyway. Mrs. Nunn advised that they were proposing to do it for the Town at the same time they did their project. Mrs. Nunn asked if the Town had \$120,000 just lying around to put the lines in with. Mrs. Nunn thought that the Town should let them do it and all they were getting in return was \$20,000 off on their connection fee. Mrs. Nunn said that it had to be fixed so that the residents could be safe in the event of a fire.

Mr. Warren commented that the Town might not end up giving them anything depending on what happened when they started digging.

Councilmember Straughan recommended that the issue go back before the Water/Sewer Committee so they could make a recommendation to Council.

Vice-Mayor Jones said that he agreed with Councilmember Nunn because he felt that it was a winning situation for the Town.

Councilmember Straughan reiterated that he would like for the issue to go back before the Water/Sewer Committee.

Councilmember Nunn stated that she would like for Council to vote on it now.

March 15, 2010

Town Attorney Stamm asked Council if they were prepared to go back and do the same for the other two 501C3 projects going on in the Town.

Councilmember Nunn replied that they had not asked the Town to do this for them.

Town Attorney Stamm replied that they would when the Rappahannock Record came out.

After the comment from the Town Attorney, it was the general consensus of Council to table the issue for 30 days while the Water/Sewer Committee prepared their recommendation.

B. Streets/Sidewalks/Playground Committee: Councilmember Robertson, Chair

1) Report from March 4, 2010 Meeting.

A copy of the committee meeting notes was included in each Councilmember's packet.

Councilmember Nunn reported that the potholes on Walnut Road had been repaired.

Mayor Smith reported that the grain trucks had torn up the curb in front of Lee's Restaurant.

2) Committee Recommendations to Council

There were no recommendations to Council.

C. Police/Public Safety Committee: Vice-Mayor Jones, Chair

1) Report from March 8, 2010 meeting.

A copy of the monthly police report and committee meeting notes was included in each Councilmember's packet.

2) Committee Recommendations to Council.

There were no recommendations to Council.

D. Emergency Preparedness Committee: Councilmember Smith, Chair

March 15, 2010

1) Report from March 1, 2010 meeting.

A copy of the committee meeting notes was included in each Councilmember's packet.

Town Manager Saunders advised that the committee discussed the reverse 911 system. Mr. Saunders said that Mr. Scott Hudson had advised that the county's Citizen Emergency Response Team (CERT) training would begin on March 16 and that anyone who wished to enroll should call Charles Bowles at 804-337-4860.

2) Committee Recommendations to Council

There were no recommendations to Council.

E. Economic Development Committee: Councilmember Nunn, Chair

1) Report from March 9, 2010 meeting.

A copy of the committee meeting notes was included in each Councilmember's packet.

Councilmember Nunn stated that she asked Community Development Strategist Susan Cockrell to work on establishing a facebook page for Kilmarnock to raise the Town's profile amongst those who use social networking sites for news and information. Mrs. Nunn reported that Mr. Saunders had advised that a Richmond based distribution company had shown interest in moving to Tech Park possibly within the next several weeks.

2) Committee Recommendations to Council

There were no recommendations to Council.

F. Town Centre Committee: Councilmember Nunn, Chair

1) Report from March 9, 2010 meeting

A copy of the committee meeting notes was included in each Councilmember's packet.

Councilmember Nunn reported that the committee examined copies of plans for a park gazebo that could possibly be used on the 9-acre property along with cost estimates. Mayor Smith asked Town Manager Saunders to obtain measurements from the Irvington Commons gazebo for comparison. Councilmember Nunn advised that Mr. Saunders had received a preliminary estimate for a town hall in the 7000 square foot range which would cost less than a

March 15, 2010

hundred dollars per square foot not including the site planning, site work or paving. The committee discussed ways to lower the cost even more and asked Mr. Saunders to provide rough estimates for some of those alternate methods. Mrs. Nunn stated that the ad requesting bids for Town Centre Drive sidewalks was ready to go and Mr. Saunders would be submitting it for publication this week. Mrs. Nunn stated that the committee also asked Mr. Saunders to look into the possibility of putting in a fenced area for a dog park on the 9-acre lot. Mrs. Nunn stated that one way discussed to raise money for the fencing was that Mrs. Moubray had generously offered to make all of the signage and people could make donations in memory of their late pets.

2) Committee Recommendations to Council.

There were no recommendations to Council.

G. Administration/Finance Committee: Councilmember Straughan, Chair

1) Report from February 12, 2010 meeting.

A copy of the committee meeting notes was included in each Councilmember's packet.

Councilmember Straughan reported that Community Development Strategist Susan Cockrell gave an update on the Lancaster by the Bay Chamber of Commerce. Mr. Straughan said that the committee recommended the Town sponsor the Chamber of Commerce at the level of \$2,500 for the calendar year.

Mayor Smith stated that during events such as the Holiday Parade the Town spends a lot of money for police protection and wanted to know if that was going to continue if they paid the additional dues.

Town Manager Saunders said that he had not heard anything to the contrary.

Councilmember Nunn stated that she recommended that the Chamber try to get some of the businesses to stay open for the Holiday Parade. Mrs. Nunn said that she did not understand why they would close with 3,000 people coming into Town.

Vice-Mayor Jones said that the businesses needed to stay open during the First Friday Walkabouts as well. Mr. Jones said that Council could do their part by increasing the donation this year, but if the businesses didn't do their part then the donation could be decreased next year.

March 15, 2010

Councilmember Nunn advised that her husband's Vietnam squadron had their reunion here last October and all 52 veterans and their wives went to the First Friday Walkabout. Mrs. Nunn said that they went into the stores that night but did not purchase anything then. Mrs. Nunn stated that they went back on Saturday and bought the things they had previously seen. Mrs. Nunn advised that when she had her market she opened up in the driveway of 72 North Main Street on the night of the Holiday parade and did \$7,000 in business. Mrs. Nunn said that a lot of people kept asking her then why the stores were not open.

Councilmember Straughan stated that Joe Hudnall of Noblett's has made the same comments.

## 2) Committee Recommendations to Council

a. Recommend that Council increase the Town's Chamber of Commerce membership to highest level by paying additional dues of \$2,400.

**ACTION: Vice-Mayor Jones made a motion to increase the Town's Chamber of Commerce membership to the highest level by paying additional dues of \$2,400, seconded by Councilmember Nunn; and carried unanimously.**

b. Recommend that Council approve the disbursements from February 22, 2010 to March 15, 2010.

**ACTION: Councilmember Nunn made a motion to approve the disbursements from February 22, 2010 to March 15, 2010 as presented, seconded by Councilmember Straughan; and carried unanimously.**

## 7. Administrative Comments and Reports: Town Manager Saunders

Town Manager Saunders thanked everyone for their cooperation and participation in the joint session held earlier in the month. Mr. Saunders advised that Mr. Sebra had just gotten back from Code Enforcement School and the two of them were hard at work on the budget for the 2010/2011 period.

## 8. Old Business

There was no discussion concerning old business.

## 9. New Business

March 15, 2010

- A. Board of Zoning Appeals: The term of Mr. Robert F. Smith expires the third Monday of March, 2010. Mr. Smith is willing to accept reappointment.

**ACTION:** Councilmember Nunn made a motion to recommend the reappointment of Mr. Robert F. Smith to a 5-year term expiring 3<sup>rd</sup> Monday of March, 2015, on the Board of Zoning Appeals. Motion was seconded by Vice-Mayor Jones; and carried unanimously. *(The BZA appointments are made by the Circuit Court Judge.)*

- B. A local citizen has offered to give the Town approximately six acres bordering Norris Pond to be used as a nature trail for the enjoyment of Town and local citizens.

**ACTION:** Councilmember Nunn made a motion to accept the generous offer of six acres bordering Norris Pond to be used as a nature trail for the enjoyment of Town and local citizens, seconded by Councilmember Straughan; and carried unanimously.

## 10. Council Comments

There were no Council comments.

## 11. Adjournment

**ACTION:** Vice-Mayor Jones made a motion to adjourn, seconded by Councilmember Moubray; and carried unanimously.

Meeting adjourned at 8:06 pm

Prepared by:

---

Joan N. Kent

---

Dr. Curtis H. Smith, Mayor

---

Jacqueline L. Blencowe, Clerk