

April 19, 2010

**KILMARNOCK TOWN COUNCIL**  
**Monday, April 19, 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  
Barbara Robertson

Members Absent:  
John A. Smith

Staff Present:  
Tom Saunders, Town Mgr.  
Marshall Sebra, Town Planner/Asst. Town Mgr.  
Paul C. Stamm, Jr., Town Attorney  
Susan Cockrell, Comm. Dev. Strategist  
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 Robertson made a motion to accept the agenda for the April 19, 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 March 15, 2010 and the Joint Planning Commission and Town Council Meeting held March 9, 2010.**

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**ACTION:** Councilmember Straughan made a motion to approve the March 15, 2010 Regular Town Council Meeting Minutes, seconded by Councilmember Robertson; and carried unanimously.

**ACTION:** Councilmember Nunn made a motion to approve the March 9, 2010 Joint Planning Commission and Town Council Meeting Minutes, seconded by Councilmember Straughan; 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 the Planning Commission meeting for the month of April was cancelled.

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

There were no public hearings scheduled.

#### **6. Committee Reports**

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

###### **1) Report from April 7, 2010 Meeting.**

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

Town Manager Saunders reported that Mr. Bill Rosenbaum informed the committee that he had made progress in the final engineering design of the water/sewer lines and sewer lift station for the CDBG project. Mr. Saunders stated that updates from Public Works Supervisor James Seagle and WWTP Chief

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Operator Pat Chenoweth showed that WWTP operations were running normally with no major problems to report. Mr. Saunders said that the committee discussed in some length a request submitted by Mr. John Davis asking the Town to supply water and sewer service to a 118-unit subdivision that he intended to develop on Boys Camp Road. Mr. Saunders stated that Mr. Ben Burton and Mr. Bill Warren came before the committee requesting a final decision regarding the water line and connection fees for Mercer Place Apartments. Mr. Saunders advised that the committee decided that this should be handled administratively with no change from normal policy. Mr. Saunders reported that based on discussions with scientists at DEQ and with Mr. Rosenbaum, the Town should request Northumberland County to require the developer of the Bluff Point project to perform aquifer testing. Mr. Saunders stated that the Town needed reassurance that the 200,000 gallons per day withdrawal by that development would not negatively affect the Town's water supply.

2) Committee's Recommendations to Council.

a. Recommend to Council that water and sewer service be provided to the proposed 118-unit development on Boys Camp Road with the following conditions:

1. The subdivision is found to be in compliance with the Lancaster County Comprehensive Plan and zoning regulations and is granted a subdivision permit.

2. The developer pays to install all of the water and sewer lines inside the project, according to the Town of Kilmarnock's specifications, and connects them to the Town's lines on Route 3.

3. The developer pays full out-of-town connection fees for every lot and out-of-town water and sewer rates will be applied to all connections unless and until the subdivision becomes a part of the Town of Kilmarnock.

4. The developer submits in writing his proffer of \$5000 additional per lot set aside for utility capital expenses, which will be collected at the time that the connection fees are paid.

**ACTION: Councilmember Straughan made a motion to agree to supply water and sewer service to the proposed 118-unit development on Boys Camp Road provided that the above described conditions recommended by the Water/Sewer Committee were met, seconded by Councilmember Robertson; and carried unanimously.**

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b. Recommend to Council that the Town be responsible for installing the water line needed for Mercer Place Apartments and that the standard connections fees will apply.

Councilmember Nunn stated that she felt that the Town should let the Lancaster Partners for Schools Foundation spend the \$120,000 so the Town would not have to. Mrs. Nunn said that once the digging began, there might be \$200,000 dollars worth of problems found.

Councilmember Moubray replied that the Water/Sewer Committee felt that any problems found during the construction would ultimately be the Town's responsibility and any complaints lodged during the construction would have to be handled by the Town Manager anyway.

Councilmember Nunn stated that the Lancaster Partners for Schools Foundation would have to have everything done according to the Town's specifications.

Councilmember Moubray said that the Lancaster Partners for Schools Foundation would be using different contractors to do the construction and reiterated that any complaints would fall back on the Town.

Town Manager Saunders intervened by saying that the complication in this situation was that the residents of Venable would have to have their service interrupted and he anticipated the possibility of some problems if the Town did not have direct control over the people doing the work. Mr. Saunders asked them to imagine those residents not having any water for a whole weekend and who would get the calls.

Mayor Smith asked Mr. Saunders if he felt reasonably certain that the construction could be completed in the timeframe required by the foundation.

Town Manager Saunders replied that he felt that the construction could be completed within the 15-month timeframe that Lancaster Partners for Schools Foundation had set.

Councilmember Moubray commented that the Town needed to upgrade that area anyway because of failed flow tests.

**NO ACTION: To be handled administratively.**

c. Recommend to Council that the Town request that Northumberland County require the developer of the proposed Bluff Point project to perform an aquifer test as would be required in a Groundwater Management Zone and allow the Town of Kilmarnock to analyze the results in light of a potential

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negative impact on its wells and water system prior to granting a permit or special exception.

**ACTION: Councilmember Nunn made a motion to request that Northumberland County require the developer of the proposed Bluff Point project to perform an aquifer test and allow the Town of Kilmarnock time to analyze the results prior to granting a permit or special exception, seconded by Councilmember Straughan; and carried unanimously.**

Councilmember Nunn stated that she had received inquiries asking if any test had been done to determine if the Town's water supply was being contaminated by the junkyard beside McDonalds.

Town Manager Saunders replied that he was not aware of any test that had been done there and noted that groundwater contamination testing was very expensive but that he would certainly look into it. Mr. Saunders stated that there were several places around Town where there was the potential for small-scale contamination.

Town Attorney Stamm advised that if the EPA determined there was a problem then they would have it cleaned up.

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

1) Report from April 1, 2010 Meeting.

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

Town Manager Saunders stated that the committee's discussion was centered around whether or not it was Council's pleasure to proceed with having a dog park on the Town lot. Mr. Saunders advised that this determination had to be made prior to any further planning for the lot.

Councilmember Nunn was quick to reply by saying that she wanted the dog park.

Town Manager Saunders stated that the only risk would be if the Town had to change the dog park's location after it was put in for some reason, so staff was considering fencing that could be easily moved if necessary.

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Mayor Smith noted concern about criticism if the Town used funds to install a dog park.

Councilmember Nunn advised that the Town's money would not be used because most of the funding would be generated from pet memorial contributions.

It was the general consensus of Councilmembers to proceed with a dog park on the Town lot.

2) Committee Recommendations to Council

There were no recommendations to Council.

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

1) Report from April 12, 2010 meeting.

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

Vice-Mayor Jones advised that Chief Bedell and his staff hosted the Neighborhood Watch Program at the Lancaster Library on April 13<sup>th</sup> with a good response from the community.

2) Committee Recommendations to Council.

There were no recommendations to Council.

D. Emergency Preparedness Committee: Councilmember Smith, Chair

There was no meeting held.

E. Economic Development Committee: Councilmember Nunn, Chair

1) Report from April 13, 2010 meeting.

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

Councilmember Nunn stated that she was ill and unable to attend the meeting. However, Mrs. Nunn commented that Community Development Strategist Susan Cockrell had placed the Town on Facebook and noted that there were currently 200 fans.

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Councilmember Straughan reported that the committee discussed the installation of a sign at the entrance of Tech Park. Mr. Straughan said that the committee suggested that the sign read as Kilmarnock Business and Technology Park and that individual nameplates be displayed for each business located there.

Mayor Smith asked if there was a price range for the sign.

Town Manager Saunders noted that there was a slight complication because the Town did not own any of the land at the intersection and would have to obtain an easement prior to installing the sign. Mr. Saunders said that he would have a price as well as hopefully a resolution to the easement problem which he would present to Council for formal approval at a later date.

## 2) Committee Recommendations to Council

There were no recommendations to Council.

### F. Town Centre Committee: Councilmember Nunn, Chair

#### 1) Report from April 13, 2010 meeting

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

There was no further discussion.

#### 2) Committee Recommendations to Council.

There were no recommendations to Council.

### G. Administration/Finance Committee: Councilmember Straughan, Chair

#### 1) Report from April 2, 2010 meeting.

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

Councilmember Straughan reported that the committee discussed making a contribution of \$500 towards bringing Miss America to the Town of Kilmarnock. Mr. Straughan stated that the committee also discussed the adoption of an investment policy. Mr. Straughan advised that he and Town Manager Saunders met with Wells Fargo to determine if the Town could receive more interest on its investment accounts but before anything could be done an investment policy had to be in place authorizing the Town to make investments as allowed by the state. Mr. Straughan stated that the committee recommended that

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the Town Manager, Town Treasurer, and a member of the Administration and Finance Committee serve on the Investment Committee. A copy of the Investment Policy was included in each Councilmember's packet.

Councilmember Nunn advised that Mr. Carroll Lee Ashburn was the President of the Kilmarnock Museum and had called her a month ago regarding Miss America coming to Kilmarnock. Mrs. Nunn reminded Council that during budget cuts the Town decided not to give any money to the museum. Mrs. Nunn stated that the museum did not have a great deal of money and it was going to cost \$3500 for Miss America to come. Mrs. Nunn said that the museum went ahead and prepaid in hopes that contributions would come through. Mrs. Nunn noted that the Chamber of Commerce, to whom the Town just gave \$2500, only gave the museum \$100 towards the event. Mrs. Nunn stated that having Miss America come to Kilmarnock would be a great thing and, if possible, the Town should donate more than \$500. Mrs. Nunn advised that a rolling parade was scheduled to run through the Town of White Stone, the Town of Irvington and end up in the Town of Kilmarnock. Therefore, all of the Towns should help. Mrs. Nunn noted that Miss America would be at the antique car show as well.

Councilmember Straughan commented that the problem was that Mr. Ashburn went out and did things on his own without coming to Council first and then he asked for money.

Councilmember Nunn replied that there was a problem with scheduling. Mrs. Nunn said that Mr. Ashburn originally wanted to get Miss America here for the Christmas Parade but that date was not available. Mrs. Nunn explained that he had to grab whatever date he could get that coordinated with an event in the Town, which happened to be the same date of the Dance Extravaganza. Mrs. Nunn said that she hoped the Town could contribute a little more than \$500.

Mayor Smith said that he had money in his Mayoral Account that he could contribute and noted that he was going to donate a portion of it to the museum anyway. Mayor Smith stated that he could add \$500 from that account to the \$500 donated by the Town to make it an even \$1000.

Councilmember Moubray advised that several Town businesses had made donations for this event as well.

Vice-Mayor Jones stated that he was disappointed to hear that the Chamber of Commerce only donated \$100.

Mr. Ben Burton spoke from the audience and stated that he served on the Board for the Chamber of Commerce and noted that, as Councilmember Straughan had previously said, Mr. Ashburn had arranged this event without consulting with anyone in advance. Mr. Burton advised that the first

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knowledge that the Chamber of Commerce had of this event was last Tuesday and Mr. Ashburn did not present a complete report to the Board at that time because as it was pointed out earlier everything happened rather quickly. Mr. Burton stated that the motion passed by the Chamber of Commerce was to support the event with a minimum of \$100 but he was sure that they were going to contribute more than that amount.

Councilmember Nunn stated that it was going to cost \$3500 for Miss America's appearance. Mrs. Nunn stated that she and her chaperone would have to be flown from wherever they were to the closest airport. Mrs. Nunn advised that she and her husband would be taking care of the flight.

Councilmember Straughan stated that he thought the Town should contribute \$1000.

Councilmember Nunn agreed.

Vice-Mayor Jones commented that the Mayor had already said that he was donating \$500 from his account and wanted to know if the Town of Kilmarnock intended to donate \$1500. Mr. Jones said that the other Towns should contribute and Kilmarnock's contribution be kept at \$1000.

Mayor Smith stated that he would not do anything without approval from Council first regarding the Mayoral account and for the time being he agreed with the \$1000 donation.

## 2) Committee Recommendations to Council

a. Recommend that Council approve the disbursements from March 15, 2010 to April 19, 2010.

**ACTION: Councilmember Moubray made a motion to approve the disbursements from March 15, 2010 to April 19, 2010 as presented, seconded by Councilmember Nunn; and carried unanimously.**

b. Recommend that Council consider making a contribution towards the cost of bringing Miss America to Kilmarnock in September.

**ACTION: Councilmember Straughan made a motion to contribute \$1000 towards the cost of bringing Miss America to the Town of Kilmarnock in September 2010, seconded by Councilmember Nunn; and carried unanimously.**

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c. Recommend that Council adopt the Town of Kilmarnock Investment Policy to regulate the handling of the Town's reserve funds and fund balances.

**ACTION: Councilmember Nunn made a motion to adopt the Town of Kilmarnock Investment Policy to regulate the handling of the Town's reserve funds and fund balances, seconded by Councilmember Moubray; and carried unanimously.**

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

### **A. Neighborhood Watch Organizational Meeting**

Town Manager Saunders stated that in addition to what Vice-Mayor Jones had already said in regards to this he just wanted to recognize Officer Kevin Dawson, Officer Ann Phelps and Chief Bedell for all their hard work. Mr. Saunders stated that they did not have a huge crowd but with all of their effort he felt it would yield dividends down the road.

### **B. Budget Preparation Progress FY 2011**

Town Manager Saunders stated that he was very close to presenting the FY 2011 proposed budget to Council for their consideration. Mr. Saunders advised that a work session regarding the proposed budget has been scheduled for May 3<sup>rd</sup> at 5 pm. Mr. Saunders said that he wanted to thank staff member Judy Stevens for all of her hard work as well as the Admin/Finance Committee, particularly Mr. Howard Straughan.

### **C. Mary Ball Road Improvement Project Update: Asst. Town Manager/Town Planner Sebra**

Asst. Town Manager/Town Planner Sebra advised that the project was coming along very nicely and was on schedule. Mr. Sebra stated that the neighborhood cleanup was underway and old appliances and debris were being removed with the assistance of staff members Franklin Carter and P.J. Jones. Mr. Sebra noted that the rehab process would begin on Earl's Barber Shop and three houses very soon.

### **D. "ASK Kilmarnock" Demonstration: Comm. Dev. Strategist Susan Cockrell**

Community Development Strategist Susan Cockrell gave a presentation on the launch of "ASK Kilmarnock" which is a new system that will allow citizens to contact the Town of Kilmarnock 24-hours-a-day, 7 days-a-week on line, on the phone, via fax, through the mail, or in person.

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## 8. Old Business

### A. Lawsuit Update: Town Attorney Stamm

Town Attorney Stamm reported that the Buzzells had exhausted all appeals and the lawsuit was over.

### B. Request for Conditional Use Permit for a propane storage facility on property zoned M1 off of Harris Road – Deferred.

Town Manager Saunders requested that a decision regarding this issue be deferred until the May 17, 2010 Council Meeting because he still had questions out in the field, particularly with VDOT, that needed to be answered.

## 9. New Business

### A. Resolution in recognition of EVB's 100<sup>th</sup> Anniversary on May 1, 2010 and a declaration of May 1, 2010 as EVB Day in Kilmarnock.

Mayor Smith read and presented the Resolution to EVB employees and declared May 1, 2010 as EVB Day in the Town of Kilmarnock following a motion made by Councilmember Nunn.

**ACTION: Councilmember Nunn made a motion to adopt the Resolution as presented to EVB in honor of their 100<sup>th</sup> Anniversary on May 1, 2010 and to declare that date as EVB Day in the Town of Kilmarnock, seconded by Councilmember Moubray; and carried unanimously.**

### B. Resolution recommending and requesting the reappointment of Mrs. Mary Lee Carter to the Fredericksburg district seat on the Commonwealth Transportation Board. Current term to expire on June 30, 2010

**ACTION: Vice-Mayor Jones made a motion to adopt the Resolution recommending and requesting the reappointment of Mrs. Mary Lee Carter to the Fredericksburg district seat on the Commonwealth Transportation Board, seconded by Councilmember Straughan; and carried unanimously.**

## 10. Council Comments

### A. Knights of Columbus Signs

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Councilmember Nunn stated that she had been contacted by the Knights of Columbus who have three signs within the Town limits, one of which is on Route 3 coming from White Stone, another on Rt. 200 coming from Wicomico, and one in front of DeSales Hall. Mrs. Nunn said that they have asked for Council's permission to add a small placard with dates and times to these signs.

Town Manager Saunders advised that a member of the Knights of Columbus would have to meet with Mr. Sebra because there was a process that had to be followed.

#### B. Illegal Election Signs

Councilmember Nunn stated that she noticed quite a few election signs that were posted illegally and should be removed. Mrs. Nunn said that the election signs in the planters in front of the furniture store and Buenos Nachos were on Town Property and noted that there were also signs at the Post Office.

Town Attorney Stamm stated that he would make some calls tomorrow and get back to Council.

#### C. Dumping of Storm Water

Councilmember Nunn stated that there was an incident in the Town last month where storm water was being pumped from one person's property to another person's property. Mrs. Nunn noted that it is illegal for a person to dump their garbage on someone else's property and wanted to know about storm water.

Town Attorney Stamm replied that the Town does not have an ordinance regarding the dumping of storm water; therefore, it is a civil issue.

Councilmember Nunn replied that she would start working on one.

Town Manager Saunders stated that the only ordinance that he could find anywhere that dealt with storm water or rainwater was in regards to mosquito control.

Town Attorney Stamm replied that if he could find a state statute somewhere regarding the dumping of storm water, he would try to have it implemented in the Town Code. Mr. Stamm noted that what he read in the letter concerning the incident addressed by Mrs. Nunn was that one individual used a hose to distribute water onto the other individual's property which was not a permanent event that affected storm water management. Mr. Stamm said that, therefore, it was a civil litigation between the two parties over damages.

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Councilmember Nunn advised that this was not the first time that it had happened and that the water had collected under a specific building. Mrs. Nunn suggested that maybe the building inspector should be notified.

Town Manager Saunders stated that he had already informed the building inspector.

#### D. Town Elections

Mayor Smith noted that a general election was being held on May 4, 2010 with five persons running for three Council seats and two persons running for Mayor. Mayor Smith stated that he wished all of the candidates well. Mayor Smith stated that he has appreciated serving as the current Mayor and noted that it had be an enlightening experience which he has enjoyed most of.

### 11. Adjournment

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

Meeting adjourned at 8:03 pm

Prepared by:

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Joan N. Kent

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Dr. Curtis H. Smith, Mayor

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Jacqueline L. Blencowe, Clerk