

November 9, 2010

**KILMARNOCK PLANNING COMMISSION
Tuesday November 9, 2010
Town Hall
Kilmarnock, VA**

Regular Meeting Minutes

1. Call to Order

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

Claudia Williamson, Chair
Jane Ludwig, Vice-Chair
Steve Bonner

Denis Bouslough
Dave Reedy
Lindsay Gardner

Members Absent:

John Smith, Council Liaison

Staff Present:

Tom Saunders, Town Manager
Marshall Sebra, Zoning Administrator/Planning Director
Paul C. Stamm, Jr., Town Attorney
Joan N. Kent, Transcriber

2. Recognition of Guests:

Chairman Williamson welcomed Kilmarnock residents, business owners, and guests.

3. Acceptance of the Agenda

ACTION: Commission Member Bonner made the motion to accept the November 9, 2010 Planning Commission meeting agenda as presented, seconded by Vice-Chair Ludwig; and carried unanimously.

4. Public Forum

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

There were no participants in the public forum.

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5. Minutes: Approve, Correct or Amend the Minutes for the October 12, 2010 Planning Commission Meeting.

ACTION: Commission Member Reedy made a motion to approve the minutes for the October 12, 2010 Planning Commission meeting as presented, seconded by Vice-Chair Ludwig; and carried unanimously.

6. Public Hearing:

There were no public hearings held.

7. Commissioner Comments

Commission Member Bonner thanked Planning Commission Members for their support regarding the resolution drafted to Council asking for reconsideration of the Nunnally rezoning request. Mr. Bonner stated that it was done through the proper channels. Mr. Bonner advised that it was reported in the local newspaper that Council denied the resolution which to the best of his knowledge was incorrect and asked Town Attorney Stamm if he recalled what transpired at the Council meeting.

Town Attorney Stamm replied that he did not recall the resolution being denied by Council as a matter of fact he did not even think it was read because Councilmember Nunn announced that Mr. Nunnally had withdrawn his request.

Commission Member Bonner reiterated that it had been reported incorrectly.

Rappahannock Record Reporter Audrey Thomasson spoke from the audience to advise that statement was not in the newspaper article.

Commission Member Bonner continued by saying that in that same article, it said that the rezoning request could not be brought back up for six years. Mr. Bonner said that that he had been serving on the Planning Commission for a right good while and recalled when Payday Lending put in a rezoning request which Council denied until they were threatened with several lawsuits. Mr. Bonner said that within a month or so the request went right back before Council. Mr. Bonner asked Town Attorney Stamm if rezoning requests could be brought back before Council and what was the time limit.

Town Attorney Stamm replied that if Council voted on an issue, and a Councilmember from the prevailing side of the vote decided during the subsequent meeting that he or she wanted to bring the issue back up, that

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person could make a motion to reconsider. Mr. Stamm continued by saying that if two-thirds of the Council agreed to the motion to reconsider, than Council could vote on the issue again.

Commission Member Bonner said that he felt that the Planning Commission made the right decision regarding the Nunnally rezoning request and felt that the only loser in the situation was the Town and a chance to continue the beautification process. Mr. Bonner said that the Town also lost a business and the revenue that it would bring. Mr. Bonner advised that Mrs. Humphreys lost a good neighbor. Mr. Bonner finalized by saying that he felt the Planning Commission had done the right thing and didn't want any Commission Members to feel that they were not important. Mr. Bonner advised that when someone ran for office they were elected but Planning Commission Members were appointed because they were special, and he wanted the two new members to feel that way. Mr. Bonner said that sometimes, the Planning Commission gets bashed because they were appointed but stated that no one should let that deter them from doing their job. Mr. Bonner noted that a lot of people appreciate the Planning Commission. Mr. Bonner finalized by saying that he enjoyed serving and was going to continue to do so.

Town Manager Saunders advised that there was a provision in the Town's Zoning Code that stated if an application for a rezoning request was denied it could not be brought back up again for a period of six months. Mr. Saunders said that Town Attorney Stamm was correct also in that a Councilmember who participated in majority vote could bring the issue up at the next meeting for reconsideration.

Town Attorney Stamm tried to simplify by saying that the six month period referred to the code and the owner of the property bringing the issue back up whereas the request for reconsideration by a Councilmember referred to Robert's Rules of Order and had to be done at their next meeting.

Commission Member Bouslough advised that Mr. Cockrell submitted a letter to Town Council regarding the Nunnally rezoning request in which he referenced creeping from commercial areas into residential areas. Mr. Bouslough asked if there was any policy on creeping and stated that he knew that the Comprehensive Plan referred to it regarding gateway corridors such as Irvington Road. Mr. Bouslough said that it seemed to him there was a legitimate question regarding creep and asked what the policy was. Mr. Bouslough stated that the Comprehensive Plan seemed rather open regarding the subject.

Chairman Williamson commented that the Town Council adopted the Comprehensive Plan.

Mr. Bouslough said that he agreed that the original suggestion was consistent with the plan, but now in light of Mr. Cockrell's letter and all of the

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individuals who signed the petition it was obvious that they were concerned about creeping in their area. Mr. Bouslough asked if there were any thoughts about where it should stop.

Commission Member Bonner replied not if the Town wanted to avoid spot zoning and stated the Comprehensive Plan showed creep from border to border.

Planning Director Sebra advised that the Comprehensive Plan was like the Town's meat and potatoes. Mr. Sebra said that if the Town didn't see the current plan as being realistic then it needed to be updated or changed. Mr. Sebra advised Mr. Bouslough that there was no short term answer for his question.

Vice-Chair Ludwig stated that the intent of the Comprehensive Plan was to extend the border areas to include cottage industry such as arts and crafts, a lawyer's office, and so on to be established in little houses. Mrs. Ludwig commented that was the way that the corridors were planned. Mrs. Ludwig said that there were many public hearings held during the comprising of the Comprehensive Plan with no objection to that.

Commission Member Bonner said that he wanted to quote the former Town Manager Lee Capps who said that when the Planning Commission made a decision or recommendation that it should be so complete and well thought about that the Town Council would be ashamed not to accept the recommendation.

Commission Member Bouslough said that the Planning Commission's decision was consistent with the current Comprehensive Plan and in light of Mr. Cockrell's letter and the petition wondered if the plan needed to be revised and if so asked what was the process was.

Town Attorney Stamm advised that Zoning Administrator/ Planning Director Sebra would be discussing that later during the meeting.

8. Old/ Unfinished Business

There was no discussion under Old/Unfinished Business.

9. New Business

A. Mary Ball Road Neighborhood Improvement Project

Zoning Administrator/Planning Director Sebra advised that a newsletter regarding the project was included in each Commission Member's packet. Mr. Sebra stated that the newsletter kept the property owners within the Mary Ball Road Neighborhood Improvement Project informed of what was going on in the process. Mr. Sebra said that there were currently six houses that were

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under contract and being worked on. Mr. Sebra noted that the rehab portion of the project was going well and everything was on schedule. Mr. Sebra stated that the citizens in the area were very pleased with the work and what was being done. Mr. Sebra said that the sewer pump station was currently under construction and should be completed by the first of next year. Mr. Sebra finalized by saying that there was a lot of water/sewer work to be done.

B. Enterprise Zone Area Designation Change

Zoning Administrator/ Planning Director Sebra advised that a designation change for the Northern Neck Enterprise Zone was scheduled for a public hearing at the next Town Council meeting. Mr. Sebra stated that the Northern Neck Enterprise Zone was administered through the Planning District Commission in Warsaw and noted that all four counties were part of one program. Mr. Sebra stated that Westmoreland and Kilmarnock were requesting changes to their designation area. Mr. Sebra advised that maps were included in each Commission Member's packet regarding the changes for Kilmarnock.

C. Comprehensive Plan Review

Zoning Administrator/ Planning Director Sebra said that during the last Comprehensive Plan review the Town hired PMA Architects as a consultant. Mr. Sebra commented that the review seemed quite extensive. Mr. Sebra advised that he thought that a Comprehensive Plan Advisory Board consisting of Planning Commission Members, several Councilmembers, and citizens of the Town should be comprised. Once the committee was formed, Mr. Sebra said that he would like to break them down into five focus categories such as economy and commerce, land use, housing, transportation and public services, and preservation. Mr. Sebra advised that he thought it would be best to advertise by website and to place an ad in the local newspaper for interested persons to apply. Mr. Sebra stated that February 2011 was their time line but noted that the Planning Commission had already reviewed the Comprehensive Plan for the most part. Mr. Sebra advised that he felt the current Comprehensive Plan was a great plan but needed to be updated.

Commission Member Bouslough asked if there was a legal date that the review had to be done by.

Mr. Sebra replied there was not and noted that the Comprehensive Plan was meant to be a working document. Mr. Sebra advised that he had seen some jurisdictions work chapter by chapter on their review but stated that Kilmarnock's Comprehensive Plan only consisted of five chapters and he felt it could be done all at one time. Mr. Sebra said that the advisory board would need to iron out a lot of the questions. Mr. Sebra asked Commission Members to start thinking about people that they would like to serve on the board.

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Commission Member Bonner advised that it had been discussed in the past to make changes to the Comprehensive Plan throughout the five year period instead of having to do it all at once. Mr. Bonner said that he felt the Planning Commission would be open to having Mr. Sebra bring up needed changes at each meeting.

Mr. Sebra replied that could be done to a certain degree.

Town Attorney Stamm said that he didn't feel that changes should be made to the Comprehensive Plan at every meeting.

Mr. Bonner replied that he meant if Mr. Sebra saw a change needed to a particular document then the revision could be discussed and decided at the meeting so when the time came to vote most of it would be done.

Mr. Sebra stated that could be done on some of the outdated items but felt that it took a full blown group of people to come together to make the decisions and not just one person.

Chairman Williamson asked when the invitations would go out to the citizens.

Mr. Sebra replied that there was no set date but the sooner the better. Mr. Sebra said that he would start by putting it on the website.

Chairman Williamson asked Mr. Sebra if he thought enough local people looked at the website.

Mr. Sebra replied that a bulk mailing would also be done and it would be advertised in the local newspaper. Mr. Sebra advised that the Commission needed to decide on a base number for the advisory board.

Chairman Williamson said that she thought it should not be too big, and that a hundred people would be ridiculous.

Mr. Sebra said that he felt 15 to 20 would be enough to start but it could be done with less if necessary.

Commission Member Bonner also thought the fewer the better in working groups. Mr. Bonner said that some people feel that the Town needed to do this or that not realizing that it could not be done.

Chairman Williamson advised that a question came up asking if the Town Council ignored the Comprehensive Plan than what good was it. Mrs. Williamson asked if there was any "hand spanking" for them doing so which generated laughter.

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Commission Member Bonner laughed and said that Commission Members might not get reappointed.

Zoning Administrator/ Planning Director Sebra advised that regardless of what Town Council did, the Town's zoning ordinances and things that govern the Town were null and void if there was no Comprehensive Plan.

Town Attorney Stamm agreed that the Town had to have a Comprehensive Plan and if Council chose not to follow the Planning Commission's recommendation than they chose not to follow the recommendation because they had the final word.

Chairman Williamson asked even if they themselves approved the Comprehensive Plan?

Town Attorney Stamm replied that Council still had the final word and would vote the way that they felt at the time. However, Mr. Stamm said that an individual could always appeal Council's decision to the BZA and if still not satisfied, they could appeal to the Circuit Court and so on.

Commission Member Gardner stated that she thought it would be wonderful to get Councilmembers involved in the process because some of the newer ones might not understand what was right. Ms. Gardner thought that it should be part of the orientation process to discuss the Comprehensive Plan with all new Councilmembers so they would be more informed when dealing with recommendations from the Planning Commission.

Town Attorney Stamm advised that the VML meetings were really great for new Councilmembers because there were sections based just on this issue.

Zoning Administrator/ Planning Director Sebra stated that Council would certainly be invited to participate in revising the Comprehensive Plan.

Councilmember Bouslough asked Mr. Sebra if Commission Members could expect some emails regarding the progress of this endeavor.

Mr. Sebra replied that they would. Mr. Sebra said that he would like to get some of the citizens who served on the advisory board before to participate. Mr. Sebra asked Commission Members to start thinking about which group they were interested in being in.

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D. Zoning Log Report

Zoning Administrator/ Planning Director Sebra advised that the Zoning Log Report was included in each Commission Member's packet.

10. Adjournment

Action: Commission Member Bonner made the motion to adjourn, seconded by Vice-Chair Ludwig; and carried unanimously.

Meeting adjourned at 7:46 PM

Prepared by:

Joan N. Kent

Claudia Williamson, Chair